With the Authors Compliments
20 Christopher Street

החוט המשולש

THE THREEFOLD CORD;

BEING SKETCHES OF

THREE TREATISES OF THE TALMUD,

Sanhedrin, Baba Metsia, and Baba Bathra.

WITH AN

Appendix containing a Lecture on the

שמונה פרקים להרמ"בם

THE EIGHT CHAPTERS OF MAIMONIDES.

BY THE

REV. B. SPIERS, DAYAN.

Author of "School System of the Talmud."

GUILDHALL LIBRARY
LONDON

LONDON:
PRINTED AND PUBLISHED BY
WERTHEIMER, LEA AND CO.,
CIRCUS PLACE, LONDON WALL.

5651—1891.

18/12236

3858

Stadt- u. Univ.- Bibl.
Frankfurt/Main

56/1288 x 6

THIS LITTLE VOLUME

Is Dedicated

WITH SINCERE REGARD

TO

CHARLES SAMUEL, ESQ.,

CHAIRMAN OF THE בית המדרש OF THE

UNITED SYNAGOGUE, LONDON.

INTRODUCTION.

THE following sketches of the three Talmudical Treatises, Sanhedrin, Baba Metsia, and Baba Bathra, are the outcome of the readings of the Talmud given by me at the Beth Hamedrash and the ש"ס חברה at the Bayswater Synagogue.

These sketches are by no means exhaustive. They are merely an outline of the contents of those treatises. Yet they will furnish the reader with some knowledge of the subjects treated therein. Of late a great deal has been written about the Talmud, and numerous lectures have been delivered on this interesting theme. Translations of extracts are published from time to time in periodicals and reviews. These articles and lectures have raised deep interest among the general public.

I have often heard the wish expressed that the whole of the Talmud should be translated into the vernacular, so that everyone should be able to read and understand it. I for one do

not believe that such an undertaking is feasible. It might almost as well be suggested that the whole of English literature should be rendered into German, French, or any other language.

It should also be remembered that it is much easier to translate from a living tongue to another. Still, as it would be idle to assert that the entire English literature could be rendered into any other language, because such a task could not be executed with fidelity; so the whole of the Talmud, that ocean of literature, could not be rendered into English in such a manner as to be intelligible to the general public. There is, further, this obvious reason that no translation in its bare simplicity could faithfully reproduce the genius of the original. It would require scores of volumes of commentaries to supplement the translation, in order to reproduce fully and clearly the ideas, trains of thought, and logical arguments so idiomatically and tersely expressed in the Talmud. To translate the discussion or שקלא וטריא of the Gemara, with its various commentaries, word for word, and to explain each sentence carefully and lucidly is only possible in a class of the kind carried on at the Beth Hamedrash and the ש"ס חברה at Bayswater. My motive in publishing these sketches is to show that the doctors of the Talmud were actuated by a strong

desire to impress upon us the sacred duty of honest and straightforward dealings with our fellow-men, and that we should regard the laws of jurisprudence as based upon Divine and religious obligations, since they enable us to carry out the all-important precept, "Thou shalt love thy neighbour as thyself." I therefore venture to express the hope that the perusal of these sketches will induce my brethren to encourage and promote the study of the Talmud, and, indeed, of Hebrew literature in general.

B. SPIERS.

The Civil and Criminal Laws of the Talmudical Treatise "Sanhedrin."

THE word Sanhedrin, סנהדרין is derived from the Greek words, *sun* and *hedron* ("a sitting together"), and signifies the highest court of justice amongst the ancient Jews.

The treatise "Sanhedrin" is so called because it deals with the rules and regulations in reference to the appointment of the Sanhedrin, and the minor judges, and the power with which they were invested to enforce the laws against all offenders, whether civil or criminal.

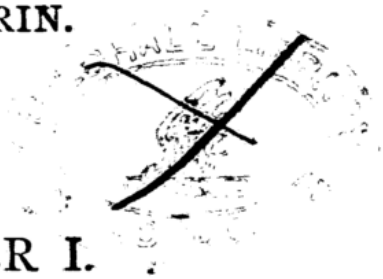
This body likewise constituted the highest authority upon any disputed law or command of the Torah, their decision in all cases being final.

While the Temple still existed, and Israel inhabited the Holy Land, there were two courts of justice, one, the Great Sanhedrin, consisting of seventy-one judges, and the other, the Lesser Sanhedrin, which consisted of twenty-three judges.

The Sanhedrin ranged themselves in a semi-circle, in order to be enabled to have a proper view of each other, and also of the parties and witnesses concerned in the cases coming before them.

Two scribes stood before the judges, one to their right and one to their left, whose duty it was to write down accurately and carefully the various views and opinions of the judges as to the innocence or guilt of the accused persons, and also to record the reasons assigned for holding them.

This course was necessary to act as a reminder in case any of the judges should have forgotten for the moment the exact reason for the opinion he had held.



CHAPTER I.

THE treatise "Sanhedrin" is divided into eleven sections or chapters, פרקים. The first chapter deals with the various laws regarding the judges themselves, namely, those cases that require the interposition of the highest Sanhedrin of seventy-one members; those that require the lesser number of twenty-three, and such as can be dealt with by three judges only.

For instance, if a whole tribe, שבט of Israel had to be judged for idolatry, or a false prophet tried for enticing the people to such worship, as also many other important cases detailed in this chapter, the case had to be decided by the highest Sanhedrin of seventy-one members.

If any individual was accused of a grave offence he could not be sentenced to death by less than twenty-three judges, viz., the Lesser Sanhedrin. Even in the case of an animal having caused the death of a human being, the animal could not be condemned to death without the decision of this court of twenty-three.

This is one of many instances which prove the humanity of the Talmudic Code, inasmuch as even a dumb animal was entitled to consideration, and

could not suffer death until searching and proper examination had taken place by numerous and eminent judges. In cases of heavy and fixed fines, such as for robberies and thefts, mentioned in the book of Exodus, chapter xxii., and in Deuteronomy xxii., and all similar cases, a Court of twenty-three was requisite, whilst monetary matters, such as loans, debts, deposits, and so forth, could be decided by three judges.

In cases of a serious nature, as mentioned above, every member among the judges had to possess סמיכה, Semicha, that is to say, he had to be specially qualified and appointed for the purpose by the highest authority in Palestine.

The institution of Semicha was of most venerable authority, for it is said to have commenced with the ordination of Moses by the Almighty, and thence to have been transmitted downwards through each succeeding generation. Although in certain cases a Beth Din of three was enough for deciding a suit, yet it was always desirable to have as many judges as possible; for instance, it was considered desirable that even a minor case should be decided by eleven rather than by ten.

The following qualifications were indispensable in the case of the ordinary judges, namely, learning, wisdom, meekness, fear of God, hatred of covetousness, good repute, love of truth, and love

of mankind. As regards the Sanhedrin, much more than the qualities just mentioned were required. They must be men of imposing presence, of mature age, men capable of judging all kinds of cases, even such as those of alleged sorcery and witchcraft, and they should also be conversant with many languages.

There are many differences between criminal and civil cases referred to in this chapter, one of which we will mention here, while other divergences will be referred to later on.

In matters where human life was at stake, and the judges did not concur, a majority of two was requisite for death sentences, but a bare majority of one was sufficient to declare the accused "not guilty."

In pecuniary matters a majority of one only was needed to pronounce a decision, whether for or against.

The Talmud here strongly recommends that in any cases involving monetary disputes it would be preferable to make a Pesharah, פשרה or arbitration, that is to say, the judges should exert their efforts to induce the contending parties to come to an amicable agreement, מצוה לבצוע.

If, however, these efforts fail, then the matter must be decided in accordance with the prescribed laws. A Beth Din that endeavours to make such

an amicable agreement possible is considered by the Talmud highly praiseworthy, and in order to strengthen the practice of "Pesharah" the following text is referred to in Zechariah viii. 16, אמת משפט שלו' שפטו בשעריכם; "And ye shall execute the judgment of truth and peace in your gates." Now, experience shows that in disputed cases, although "the judgment of truth" is pronounced by the judges, yet the losing party is usually dissatisfied, doubting in his own mind the justice of the decision. This is likely to produce feelings approaching animosity towards the judges and the witnesses on the opposite side, and it thus becomes almost impossible "to execute the judgment of truth," and at the same time to re-establish peace and brotherhood between the disputants. How then, it is asked, can the words of Scripture be reconciled?

The Talmud therefore sagaciously applies this text as an injunction to the judges that they should in the first instance endeavour to procure a friendly settlement instead of at once deciding the case in accordance with law, as by this means only can the words of the prophet above quoted be realised in their true sense.

We read further on that if a case between a rich man and a poor man comes before a judge, and a disciple of the judge is present—this dis-

ciple having good reason for thinking that strict right is on the side of the poor man—he ought freely and courageously to express his opinion in the matter, even in the presence of his teacher, for, it is said, "Ye shall not be afraid of the face of man" (Deuteronomy i. 17): מניין לתלמיד היושב לפני רבו וראה זכות לעני וחובה לעשיר מניין שלא ישתוק שנאמר לא תגורו מפני איש.

The Talmud also forcibly exhorts both judges and witnesses to seriously reflect upon the high responsibility devolving upon them. The witnesses should remember that they give their evidence in the presence of God, and that He will surely punish them if they tender false testimony; and the judges, too, should bear in mind that they pronounce their sentence in the presence of the Supreme Judge, and that they would incur the penalty of perverting justice: ויהיו עדים יודעים את מי הן מעידין ולפני מי הן מעידין ומי עתיד ליפרע מהן ויהיו הדיינין יודעים את מי הן דנין ולפני מי הן דנין ומי עתיד ליפרע מהן.

Incidentally, the Talmud states that man is hereafter first judged for having neglected to study the Torah: אין תחילת דינו של אדם אלא על דברי תורה. Tosefoth, commenting upon this, quotes another passage from the Talmudical treatise "Shabbos," which appears to contradict this statement, for there we read that man, when standing hereafter

in judgment before his Maker, is first asked whether during his life on earth he was just, upright, and straightforward in his dealings with his fellow-men; and the second question is, whether he fixed any special time for the study of the Torah. נשאת ונתת באמונה קבעת עתים לתורה There is yet another variation between the two passages. Here, in accordance with Rashi's Commentary, the question is whether man occupied himself entirely with the law, עסקת בתורה, and there the question is whether he fixed certain times for the study? קבעת עתים לתורה. But the apparent difficulty may thus be solved. It is quite true that the first question put to man hereafter will be respecting his integrity, namely, whether in his business transactions his yea was yea, and his nay, nay; whether he ever gave false weight or measure; whether he ever practised any deception in his commercial dealings, and whether he ever exacted usury, and so forth. If he should plead ignorance of the law in reference to such matters, then the first judgment, as stated here, is for having neglected its study, for had he studied the law, it would surely have guarded him against committing any of these offences. This may be illustrated in the following way:—Let us suppose that a man is brought before a magistrate and accused of having done

some damage, such as breaking windows or the like. He pleads in extenuation that he was intoxicated, and was not aware of his mischievous acts. True, remarks the magistrate, you were unaware of your actions on account of your intemperance, so that, strictly speaking, you are not answerable for the damage. But I must nevertheless punish you, for you have no right to be intoxicated, for this led to the evil with which you are charged. Even so, in the case of a man who pleads before the Supreme Judge his ignorance of the Torah, in consequence of which he violated its injunctions; this plea can only result in his own condemnation for not having studied the Torah, otherwise he would readily have known right from wrong. There may be given another explanation of the two apparently contradictory passages in accordance with the comment of מהרש"א. The passage in treatise "Shabbos" refers to those persons whose sole occupation is trade or commerce; the first question put to these is, therefore, whether they have dealt honestly and uprightly in all their commercial transactions.

But even such people as work for their daily bread are not entirely free from the obligation of studying the Torah, but should at least fix certain hours of the day or week for that purpose. Thus the second question put is, whether they at least

appointed any time for the study of the Law קבעת עתים לתורה.

Here, however, the Talmud refers to those whose sole profession is the study of the Torah, that is to say, men who are the spiritual leaders and teachers of a community. Such men should give their whole time to study, that they may be well versed in Jewish Law, and be able to decide any religious point that may come before them, and also know how to guide and lead the flock committed to their charge. The first question, therefore, which is addressed to these is, whether they have occupied themselves with the study of the Torah. עסקת בתורה The Rabbis point out that every judge should be quite sure before giving a decision in any case, that the law on the subject is as clear to him as the light of day : דינו לבקר משפט (ירמיה כ׳א) אם ברור לך הדבר כבקר אמרהו ואם לאו אל תאמרהו.

The celebrated Rabbi Elijah Gaon of Wilna, in his Commentary on Proverbs, chapter vi., writes :—הדיינין צריכין להיות בקיאים גם במבעו של עולם בכדי שלא יהי" דין מרומה דאם לא יהי" בקי בענינים אף שיהי" בקי בדין תורה לא יצא הדין אמת לאמיתו. " The judges should not only be thoroughly versed in all civil and criminal laws, but also should have an extensive acquaintance with all branches of general knowledge and secular wis-

dom, for then only will they be able to judge correctly and justly."

The doctors of the Talmud were extremely circumspect with regard to everything that came before them for decision. One instance will suffice to prove their anxiety on this point. A certain man who had once been the host of Rab happened to have a law-suit. He went to Rab, and before mentioning the purport of his coming, he said to him: "Wast thou not once my guest, and dost thou not remember how kind I was to thee?" "Yes," replied the Rabbi. "Now," said the man, "I have a law-suit, and I should like thee to be the judge therein." "Oh," replied Rab, "if that is the case, it is not right for me to be thy judge." By this Rab meant to say, that having been reminded of the favours shown him by his late host, he feared lest this fact might unconsciously bias his mind on his behalf. אם הדיין דומה למלך שאינו צריך לכולם יעמיד ארץ ואם דומה לכהן שמחזיר בבית הגרנות יהרסנה; "If the judge is, like a king, independent and above the power of any one, he upholds the land; but if he is like a priest who goes about to threshing-floors to receive offerings, then he destroys the land." This is to point out that a judge can only give an unbiassed and impartial decision when he is utterly independent of either party.

The judges are forcibly exhorted by the Talmud not only to give due and careful consideration to petty as well as to important cases, but also to avoid giving preference to hearing cases involving large amounts. They should take each case as it comes before them: שיהו" חביב עליך דין של פרוטה כדין של ק" מנה.

The Talmud further dwells largely upon the subject of עיבור החדש ועיבור השנה,—the laws and regulations in reference to the fixing of the first day of the month, and the periodical intercalating of an extra month.

Incidentally we are told that even the smallest town should possess the following ten requisites:—(1) A court of justice בית דין, (2) a charitable institution, (3) a synagogue, (4) a bathing establishment, (5) sanitary conveniences, (6) an operator, מוהל, (7) a medical man, (8) a scribe, (9) a שוחט, that is, a person qualified to kill animals according to Jewish law, and last, but not least, (10) a teacher for children, מלמד תינוקות. In any town that has not these ten requisites no learned man should ever dwell: כל עיר שאין בה עשרה דברים הללו אין תלמיד חכם רשאי לדור בתוכה.

CHAPTER II.

THIS chapter treats of the laws relating to the elevated position which the high priest כהן גדול occupies, and many regulations are here laid down which it is incumbent on him to observe. The Talmud further dilates upon the distinguished station the king occupies in the community, how the people are to honour and revere him, so much so, that if the king should be willing to waive his high position in any case whatever, such condescension should not be accepted, מלך שמחל על כבודו אין כבודו מחול. Further, he should not be summoned to appear as a witness in any case, nor can he be a judge or be judged in any matter of law. But this latter rule, the Talmud observes, is only applicable to the kings of Israel for reasons stated there, but not to those of the house of David.

Moreover, no one is allowed to marry the king's widow. These and many more distinctions bearing on the position of a king are pointed out in this chapter.

But, although the king occupies so exalted a rank, nevertheless the course of his life should be in every respect in accordance with the ordinances

and regulations devolving upon him by the law of God.

The king is not allowed to marry many wives, nor to heap up in abundance gold and silver beyond what is necessary to maintain his kingdom. He should not impose too heavy a burden on the people, nor rule them despotically. He is bound to have two scrolls of the Law in his possession. One he is to put among his treasures, and the other he is always to carry with him, so that he may continually read it, and thus conform to the words of the Psalmist, "I have set the Lord always before me:" שויתי ד' לנגדי תמיד.

The Talmud here asks, מפני מה לא נתגלו טעמי התורה: "Why are no reasons given in the Torah for the commandments we have to keep?" and the reply is, שהרי שתי מקראות נתגלו טעמן ונכשל בהן גדול העולם; "Because there are two commandments respecting the king, the reasons of which are distinctly stated in the Torah, and a great man was thereby induced to transgress them." The Torah notifies the reason why the king shall not multiply his wives, "that his heart turn not away from the Lord." King Solomon relied upon his wisdom, that the women would *not* turn away his heart from God. Again it is said, "the king shall not multiply his horses, that the people should not

return to Egypt." King Solomon transgressed in consequence both these commandments.

In this chapter we also find several sayings of the Rabbis with regard to matrimony, and we are told that marriages are ordained in heaven.

The Talmud also refers to the irreparable nature of the loss sustained by either wife or husband should death separate them, and one Rabbi puts it in the following expressive words: "A man only dies to his wife, and a woman to her husband": אין איש מת אלא לאשתו ואין אשה מתה אלא לבעלה. The Talmud considers that first marriages are, as a rule, the happiest: אין אדם מוצא קורת רוח אלא מאשתו הראשונה.

CHAPTER III.

THE third chapter commences with the subject of the choice of judges in cases of civil law. This is entirely the privilege of the parties concerned in the suit. Both plaintiff and defendant may select their own judges, and these two judges choose a third, so as to form a quorum of three, a "Beth Din," which is necessary for deciding civil cases. The author of the טור חושן משפט gives the following ingenious reason for this regulation:—

As the plaintiff and defendant each selects his own judge he will be sure to abide by the decision, because every one will say to himself, "I have chosen my own judge, and am therefore confident that he will do his best for me." And as the two judges thus appointed select a third one, the case will be thoroughly sifted and discussed between the three, and the decision will be given in accordance with the strict letter of the law. Thus there will be no cause for either suitor to be dissatisfied with the result. In reference to this Rabbi Moses Isserls, הר׳מ׳א ז״ל observes in the "Choshen Mishpat," הלכות דיינים ch. iii., that this method of selecting their own judges is only allowed when there are no fixed דיינים in the place.

Where, however, there is a Beth Din of three דיינים specially appointed, each case must be brought before them, and neither the plaintiff nor the defendant has any right to choose his own judge. The Talmud here enjoins that any one signing a document as a witness should be very careful respecting the character of those who sign with him: אין העדים חותמין על השטר אלא אם כן יודעים מי חותם עמהם; and we are told that judicious and thoughtful people in Jerusalem, נקיי הדעת שבירושלים, would not put their signature to any document without knowing previously the character and the standing of the person who was going to sign with them, nor would they be judges without knowing who was to be their colleague, nor would they accept an invitation to any banquet without having first ascertained who were to be their associates.

The Doctors of the Talmud consider the following persons unfit to be judges or to appear as witnesses in any case of law: thieves, robbers, gamblers, betting men, etc., giving as the reason that, having no other proper calling by which to obtain a livelihood, שאין להם אומנות אלא הוא they are indifferent to the honest acquisition of money, in consequence of which no confidence can be placed in them. The usurer likewise, being by the nature of his business eager to accumulate

wealth in an unlawful manner, is equally unworthy of trust.

Near relatives, cousins even, are strictly precluded from being judges or from giving evidence in cases of civil and criminal law. This is based on the following text (Deut. xxiv. 16): "The father shall not be put to death for the children, nor shall the children be put to death for the father." The Talmud asserts that this verse cannot be literally taken to mean that neither should be put to death for the sins of the other, because this is already distinctly mentioned in the concluding part of this same verse, viz., "Every man shall be put to death for his own sin." It is therefore concluded that these words mean that fathers shall not suffer death by the evidence of their children, nor shall children suffer death through the evidence of their father: לא יומתו אבות בעדות בנים ולא יומתו בנים בעדות אבות.

It is therefore decided that relatives can in no case give evidence for or against each other.

If the judges are enemies, they must not sit together in judgment in any case whatever, nor are witnesses allowed to give evidence if they are known to be hostile either to the plaintiff or the defendant.

The cross-examination of witnesses is next referred to. Persons coming forward to give

evidence in any case are strongly exhorted to be very careful in the testimony they are about to give.

After the plaintiff and defendant have stated their cases before the judges, they retire, and the witnesses are called in separately, and severely cross-examined. It should be strongly impressed upon them that false witnesses are utterly despised, not only by the world at large, but also by the very persons who may have induced them to come forward for any pecuniary or other material advantage: סהדי שקרי אאוגרייהו זילי. During the whole of the examination of the witnesses, the plaintiff and defendant remain outside the court. After the evidence has been gone through and found to agree in every particular, the witnesses and litigants retire and the judges discuss the case *pro* and *contra*. Having come to a decision in the matter, all parties concerned are called in, and the chief of the judges pronounces the decision.

The judges are strictly prohibited from communicating to either party, directly or indirectly, the side which they had taken during the discussion, that is to say, none of the judges may say to the plaintiff or defendant, "I was in your favour, but I was over-ruled by the others, who were against you." This is based upon Proverbs

xi. 13, הולך רכיל מגלה סוד: "A talebearer reveals secrets, but he that is of a faithful spirit concealeth the matter:" ונאמן רוח מכסה דבר. The Rabbis went so far in this particular, that when it once happened that a certain disciple revealed what had occurred in a case before the "Beth Din" twenty-two years previously, he was in consequence prohibited from entering the Beth Hamedrash, the reason being that he was a revealer of secrets and an author of calumny and slander.

The witnesses can only testify to what they themselves have heard or seen, but cannot give hearsay evidence. Although the decision had already been given to the parties in accordance with the evidence before the "Beth Din," yet if the plaintiff or defendant could bring forward fresh evidence in his own favour, the decision might be set aside and the case reheard; but if it was distinctly stipulated that fresh proof should be brought within a specified time, then, after the specified time had elapsed, the former decision held good, unless it could be satisfactorily proved that such evidence could not possibly have been brought forward before the expiration of the time fixed.

If one of the parties to a suit insists on having the case tried before the Sanhedrin, but the other is unwilling, saying that it can be decided by the local judges, in consequence of expense or incon-

venience, then the latter cannot be compelled to go before the High Court. But the case and the decision of the "Beth Din" may be submitted to the High Court in writing and its decision taken thereon. There is, however, an opinion expressed with regard to the difference between debtor and creditor. The creditor can compel the debtor to go up to the High Court, but the debtor has no such power over the creditor. As the proverb has it, עבד לוה לאיש מלוה "The borrower is subservient to the lender" (Proverbs vii. 22).

CHAPTER IV.

THE fourth chapter commences by noticing the various differences between civil and criminal law. A few instances will suffice to show the stringency of the rules laid down for the judges, where human life is at stake. Decision in civil cases should be given by no less than three judges, but in criminal cases no less than twenty-three judges are required. In civil cases, the judges may begin the discussion of the case either in favour of or against the defendant or plaintiff, whilst in criminal cases they should always begin with arguments in favour of the accused.

In civil suits the matter may be decided by a majority of one only, whether in favour of or against any party; whereas in criminal cases, if in favour of the accused, a majority of one is enough, but if against him, a majority of two is required. Civil cases may be discussed during the day, and the decision given even during the night, if the judges so wish. In criminal cases, the decision must be given on the day on which the case is concluded, if the result be in favour of the accused, but if it be against him, the judgment must be postponed to the next day, the reason being that

in the meanwhile new evidence might be brought to exonerate the accused.

No criminal case should be dealt with on the day preceding the Sabbath or festival, because if the accused be found guilty, the pronouncing of the sentence must be deferred to the following day, but in this instance it could not be done, on account of the following day being Sabbath or festival, when no execution is allowed to take place, and to postpone it still further would be עינוי הדין, a delay of judgment, which is strictly prohibited, if the case be perfectly clear, and there be no point whatever to alter the decision as to his guilt: לשהותו אי אפשר מפני עינוי הדין.

In all cases, whether civil or criminal, strict investigation and cross-examination are indispensable. There is, however, an exception in the case of a dispute between debtor and creditor. Here such severe cross-examinations are not desirable, for the simple reason that this might be detrimental to commercial intercourse, inasmuch as no one would favour another with a loan if great difficulties were put in the way of recovering the debt, or in the words of the Talmud, שלא לנעול דלת מפני לווין; Not to shut the door against those who are in want of a loan; and it must be borne in mind that a loan must be granted without any interest in accordance with Jewish law.

If an error occurs in the decision of a judge, he is responsible for the loss caused by such fatality. There is, however, a difference between an error the judge commits in a case in regard to which the law is clearly expressed in the Mishnah, טעה בדבר משנה and an error concerning a point of law upon which the Rabbis are at variance, and the opinion of one of them having been accepted, and he having decided against this accepted opinion .טעה בשיקול הדעת The judges therefore, are strictly cautioned to give the fullest attention to any case coming before them, and to exercise the greatest deliberation before giving their final decision. It has been mentioned in the first chapter that in cases involving monetary disputes, arbitration, ,פשרה should, if possible, be resorted to, and if not so settled, then only should the matter be decided in the usual course of law, and in the present chapter the Talmud bases this on a verse in the Torah (Deuteronomy xvi. 20), ,צדק צדק תרדף "Justice, justice thou shalt pursue."

The repetition of the word "justice" implies two methods of doing justice, namely, the first by Peshorah, פשרה an amicable settlement, or if this is not found practicable, then the judgment should be given in strict accordance with the letter of the law. Some illustrations are given in this chapter as regards an amicable arrangement. We quote

one instance:—Two ships are crossing a river, and meet at a narrow part of it. They are both anxious to reach the shore as soon as possible. If they cross abreast, a collision is sure to follow, and this might cause both to sink. The only way of crossing safely would be for one to remain behind while the other proceeded. A dispute arises, each wishing to cross first, which should thus be settled. The one more heavily laden should precede the other in crossing the stream, but if both are equally laden, then whichever proceeds first should give to the other some compensation for the delay incurred. Such a course would no doubt satisfy both parties.

The Talmud now returns to the method of dealing with witnesses in a case where life is at stake. The witnesses are to be forcibly exhorted, and thus addressed by the judge: "Bear in mind the serious responsibility resting upon you. In giving your evidence you must be sure of having really seen the act committed to which you testify. You must not speak by hearsay, or from mere imagination, nor should you base your evidence upon any circumstantial proof. You might, perhaps, not have been aware that you would be severely cross-examined. Bear in mind that evidence in criminal cases cannot in any way be compared to civil matters. In the latter, if you

GUILDHALL LIBRARY

give incorrect or false evidence, it can be rectified by refunding the loss that might have been caused thereby. In the former, however, the evil done cannot be remedied, and the blood of him who is slain through false evidence, as well as the blood of his children will cleave to you for ever."

To show how stringently opposed was the Jewish criminal law to condemning upon circumstantial evidence, the following instance may be quoted. Two witnesses declared that they saw a man pursuing another into a desolate place, and that they went after them and found that the pursuer had a sword in his hand dripping with blood, and the other man was lying dead upon the ground in a pool of blood. Even such strong circumstantial evidence as this would not convict the pursuer, because the witnesses did not actually *see* the act perpetrated.

The Talmud now gives some reasons why one man only was at first created, from whom descended the whole human family, to teach us that if one man sheds the blood of another, it is as though he had destroyed a whole world. Further, if two had been simultaneously created, then it might have induced unbelievers to say that there were two deities, each of whom created one man: אדם יחידי נברא שלא יהי' הצדוקים אומרים הרבה רשויות בשמים. Also, that one man should not claim pre-eminence over another, for even now, with only

one ancestor, men claim superiority over each other; how much more would they do so if they were descended from two ancestors. The wonderful power of the Almighty Creator is hereby also shown that although the human race springs from one man, yet there is an infinite diversity of voice, feature, and knowledge among mankind, so that we never find two persons exactly alike: להגיד גדולתו של מלך מלכי המלכים הק׳ב׳ה וגו׳ : בשלשה דברים אדם משתנה מחבירו בקול במראה ובדעת. Some reasons are here also stated as to why man was created on the sixth day, the last of all creatures, for had he been created earlier, unbelievers would find cause to say that man shared in the creation; and again that man should bear in mind that he has no reason to be proud and haughty, as even the smallest insect in creation existed before him: שלא יאמרו שותף הי״ לו להק׳ב׳ה במעשה בראשית. דבר אחר שאם תזוח דעתו עליו אומר לו יתוש קדמך במעשה בראשית. Moreover, the goodness of the Almighty is hereby shown to man, for he was not brought into existence till everything had been prepared for his use.

The Talmud now lays down the following important dictum: הוי שקוד ללמוד תורה ודע מה שתשיב לאפיקורוס—"Be diligent in the study of the law, in order that thou mayest know how to reply to the atheist or unbeliever." This, Rabbi Jochanan

explains, refers only to the unbeliever of other nations; but a Jewish unbeliever, knowing well the truth of his religion and yet denying it, any refutation of his erroneous opinions will not only be unacceptable to him, but will even cause him to go still further in his unbelief: לא שנו אלא אפיקורוס ע׳כ׳ום אבל אפיקורוס ישראל כ׳ש׳כ דפקר טפי׳.

Instances are given of Biblical passages in regard to which the unbelievers of all times have erred, yet the very text in Scripture on which they rely proves the very contrary of their false assertions. The "Epicureans" argue on the verse Gen. i. 26, where it is said ; נעשה אדם בצלמנו "We will make man in our image," that this expression implies more than one deity, but the answer to this false supposition follows immediately in the same chapter and the next verse (27): "And He created man in his image," the singular form being used. Further, in the eleventh chapter, in the account of the building of the tower of Babel, it says ,נרדה נא ונבלה שם שפתם "We will go down and confound their language," speaking in the plural form; yet the same chapter (v. 5) declares: "And the Lord went down to see the city and the tower," etc., the singular form only being used, וירד ד׳ לראות את העיר. Many more Biblical passages are referred to in which the plural form is used and is immediately followed by the singular, showing

indisputably the existence of only one God, a perfect unity.

The plural form as used in the Bible instead of the singular is not unusual in the sacred language when a high authority is speaking. Such form of speech is not to be wondered at, as we find it in our own day in common use, as, for instance, when Royal commands are issued, and other similar cases.

A certain unbeliever said to Rabbi Gamliel: "The Bible, when speaking of the greatness of God, says that He telleth the number of the stars. What greatness is there in this?—I know also the number of them." To which the Rabbi rejoined: "Tell me the number of thy teeth." Upon this the unbeliever put his hand into his mouth to count them. "Ay," said the Rabbi, "thou dost not know even what thou hast in thy mouth, and thou pretendest to know the number of the stars."

Many more such idle questions were put to the Rabbis by unbelievers, and the former always satisfied and silenced the infidels by their wise and ingenious answers.

CHAPTER V.

THIS chapter deals with the further cross-examination of witnesses in cases involving the penalty of death. The Talmud enjoins that the witnesses are to be questioned as stringently as possible as to the exact year, month, day of the month, day of the week, and the hour of the day when they had seen the accused commit the crime with which he is charged. The witnesses must also be asked whether they are quite positive that the accused is the man they saw, and they must be able to identify him without the least shadow of doubt, and whether they had duly cautioned him התראה not to commit the act now laid to his charge. If the two witnesses do not exactly agree on every point of the evidence, the accusation falls to the ground.

The severity of the examination in such cases is based on the following passage (Deut. xiii. 15): ודרשת וחקרת ושאלת היטב והנה אמת נכון הדבר וגו', "Thou shalt enquire and make search and ask diligently, and behold if it be truth and the thing certain that such abomination is wrought among you."

The judges should be very careful and deliberate

in these cases, so that, even if one of their disciples being present should raise some point bearing upon the evidence which would be in favour of the accused person, he must be brought forward and seated near the Sanhedrin. They are to listen carefully to his statement. Nay more, even if the accused himself says that he has some statement to make in his own favour, it should be carefully listened to and dealt with according to its merits. If the case be determined in favour of the accused he is at once to be discharged; but if against him the decision is deferred to the next day, and the judges separate in pairs, take as little food as possible, and drink no wine or any strong drink the whole day. On the next day they reassemble and discuss the matter again. To show how careful the judges are enjoined by the Talmud to be in any criminal case brought before them, it is here stated that, if there should be variance in the evidence of the witnesses —as, for instance, in a case of murder, if one witness deposes that the weapon was a sword and the other states that it was a different instrument (an axe or some other weapon), or if the witnesses differ in any other point connected with the crime, the case is dismissed. In short, to prove guilt, the evidence must tally in every particular.

Incidentally there are also mentioned in this chapter the blessing, which is said every month on

the appearance of the new moon, ברכת קידוש לבנה the text of which is found in every prayer-book. The repetition of this blessing is strongly enjoined by the Rabbis and considered a meritorious act. The Talmud here also asserts that one can only fight, as it were, his way through the depths and difficulties of the Torah to understand it properly by a thorough study and a perfect knowledge of the Mishnah: במי אתה מוצא מלחמתה של תורה במי שיש בידו חבילות של משנה. (*Vide* Rashi, on p. 42.)

CHAPTER VI.

WE now come to the sixth chapter, which begins as follows on the subject of executions:

After the decision of guilty was given, the culprit, accompanied by two learned men, שני תלמידי חכמים was led to the place of execution, some distance from the spot where the Sanhedrin were sitting. At the door of the Sanhedrin a man was stationed, holding a flag in his hand. A little way off a horseman was posted, at such a distance that the two could easily see each other. If any one appeared and said that he had discovered something to bring forward in defence of the accused, the man near the court raised the flag as a sign to the horseman, who at once galloped to the place of execution in order to stay the proceedings. Nay, even if the culprit himself said that he had discovered something fresh in his own favour he was brought back to the court and the matter was again investigated. This might be repeated once or twice, even though there were nothing tangible in the statement, but after that the execution was not stayed unless substantial grounds were shown for taking such a step. When the culprit was led to execution a cup of wine mixed with frankincense was given to him in order

to render him insensible to pain. היוצא ליהגר משקין אותו קורט של לבונה בכוס של יין כדי שתטרף דעתו. This rule the Talmud bases on the following verse in Proverbs xxxi. 6: "Give strong drink to him that is ready to perish, and wine unto those that are of heavy heart."

Immediately before the execution the following announcement was publicly proclaimed: "Such and such a person is to be executed for a certain crime, committed at a specified time and place. The names of the witnesses are so and so. Whoever has anything to urge in his defence may come forward and declare himself."

When the culprit was about ten cubits distant from the place of execution, he was asked to confess his sins, for all those who earnestly and repentantly confess their offences before death may be sure of forgiveness and enjoy eternal bliss. Should he not understand in what terms to express his repentance, he is asked to repeat the following formula: תהי מיתתי כפרה אל כל עונותי "May my death be an atonement for all my sins."

Approaching nearer to the place of execution, at a distance of four cubits, if the convicted person was a man, his garments were removed from the upper part of his body; but in the case of a woman she retained all her ordinary apparel.

The Talmud now deals with the subject of

burial, and forcibly enjoins the duty of speedy interment, unless there be any reasonable cause for delay. Such as were executed in accordance with the decision of the Sanhedrin were neither buried in the burial-place of the community nor in that of their own family, but in one of the two places specially set apart for criminals; and when sufficient time had elapsed, so that it might be assumed that the flesh had been consumed, leaving only the bones, these were carefully collected and buried either in their own family vault or in the general burial-ground: נתעכל הבשר מלקטין את העצמות וקוברין אותן במקומן. The relatives of the deceased then came and greeted the judges and the witnesses, to show that they bore them no animosity, and that everything had been done strictly in accordance with justice. In cases where the execution had been ordered on political grounds, the property of the condemned person was confiscated; but if he suffered the penalty of death for any other crime, his property was handed over to his heirs or to his near kinsfolk.

The Talmud, having enlarged on the duty of burying the dead, decides that sepulture is a Scriptural ordinance. It is thus evident, from the Talmud, that cremation is entirely opposed to the law of God, and this decision has been supported by all ancient and modern Rabbis, פוסקים ראשונים

ואחרונים, without any dispute whatever; consequently those who attempt to prove that cremation is not opposed to Jewish law are utterly wrong.

The impartial student will clearly see from the various Biblical passages quoted in this chapter that the duty of burying the dead admits of no shadow of doubt, for even those who were executed had, as we have seen, to be thus treated.

In connection with this matter it is also evident that the Rabbis insisted upon every respect being shown to the dead. Not to inter the dead in accordance with the regulations of our holy religion would be highly dishonouring to them. It is further evident from the Talmud that it is utterly wrong, and even sinful, to remove bodies from their graves and apply the burial-ground to other purposes.

CHAPTER VII.

IN this chapter the Talmud minutely describes the method of execution, as proved from the Books of Moses, namely, סקילה, stoning; שרפה, burning; הרג, beheading; וחנק, and strangling.

There is no need in a sketch of this kind to enter into particulars as to the methods adopted; but it is necessary to mention that burning, as expressed in the Bible, is, according to the Doctors of the Talmud, not to be taken in its literal sense of burning the body. A hot substance was put into the mouth of the culprit, which, passing down the throat, caused instantaneous death. This instance, too, is a clear proof of the high importance of the oral law, without the interpretation of which no Biblical commandment could be properly understood or carried out.

The four modes of execution are given in the Mishnah in the order mentioned above, to indicate that סקילה, or stoning, was considered the severest mode of death; next was שרפה, burning; then הרג, beheading; and last חנק, strangling.

The Rabbis strictly enjoin that the execution should be carried out as humanely as possible, ברור לו מיתה יפה; for though the sentence of

death be perfectly just, there is yet applicable to the convict the Biblical commandment, ואהבת לרעך כמוך, "Thou shalt love thy fellow-man as thyself."

Incidentally the Talmud warns the learned against being too familiar with the ignorant, the following illustration being given: למה תלמיד חכם דומה לפני עם הארץ בתחלה דומה לקיתון של זהב סיפר הימנו דומה לקיתון של כסף נהנו הימנו דומה לקיתון של חרס כיון שנשבר אין לו תקנה: In the first instance, the learned seem to the ignorant like a golden vessel. If the learned converse with the ignorant upon a topic of a commonplace nature, having no reference to learning or wisdom, he is regarded as one degree lower, as a vessel of silver. But as soon as the learned accepts from the ignorant man any gift or favour, the former loses his superiority entirely, and is looked upon as an earthen vessel, which when broken cannot be repaired.

There is in this statement, I believe, a profound and subtle significance, which no doubt has been appreciated and experienced by many a learned man during his career.

The next subject dealt with in this chapter is the law in reference to blasphemy. The mode in which a man commits the sin of blasphemy, and the words in which it was expressed, and also

how the witnesses are to be cross-examined in this matter are explained. The elder of the witnesses has to give his evidence in the exact words of the person who pronounced the blasphemy. The other witnesses simply say, "I heard the same," thus avoiding repetition of the blasphemy. The public were not admitted at the examination of the witnesses.

During the examination the judges had to stand, and on hearing the blasphemy repeated by the witness they had to rend their garments, and the rent thus made was never allowed to be repaired.

The Talmud now proceeds to deal largely with the subject of the seven precepts given to Noah and all his descendants, known as שבע מצות בני נח, the Noachide precepts, which are as follows: דינין ברכת השם עבודה זרה גילוי עריות שפיכת דמים גזל אבר מן החי.

1st. To have in all parts of the land courts of law.

2nd. Not to commit blasphemy.

3rd. Not to worship idols.

4th. Not to commit adultery.

5th. Not to commit murder.

6th. Not to steal.

7th. Not to eat the flesh of any animal while it is yet alive.

DHALL LIBRARY

These seven commandments are explained minutely in all their branches, and are based on Genesis ii. 16.

In this chapter are also given in detail the various modes and forms of idol worship, and it is stated that if a man be guilty of such worship, in any shape or form, he is condemned to death. The sin of idol worship is so severe and strict, that a man is not even allowed to mention the name of any idol, or make any reference thereto. This is enacted in order to avoid anything that might ultimately lead to any honour or reverence paid to an idol or an oath taken by it.

We now meet with some description of the abominable manner in which some idols were worshipped by the ancient heathens. The worship of Molech is also described.

En passant, the Talmud lays down the law, that whoever strikes, or even lifts his hand for the purpose of striking his fellow man, deserves to be called a wicked man: המגביה ידו על חבירו אע"פי שלא הכהו נקרא רשע. We meet here with a remarkable passage which requires explanation. It is the following: גוי ששבת חייב מיתה. If a non-Israelite observe the Sabbath, and rests from work on that day, he is guilty of death. This at first sight seems a very severe and unjust sentence, and the opponents of the Talmud have often quoted

this passage, and used it as a weapon to attack its teachings, and bring derision upon them. But these opponents are entirely ignorant of the true meaning of this sentence, for it is evident from the explicit words of the great Maimonides, in the "Jad Hachzakah," that this passage refers only to resting on the seventh day for the purpose of idol worship, because idol worship is strictly prohibited to all the descendants of Noah; and this not only applies to the seventh, but to any day of the week, if the cessation from work take place for the purpose of instituting a day of rest as a special act of idolatrous worship. But to rest on the seventh day, with a view of commemorating the creation in six days, according to the command of God, is not prohibited to any person, including a non-Israelite. (See also Rashi on this passage.)

We now come to the Biblical prohibition of divination, observing of times, enchantment, witchcraft, consulting familiar spirits, magic, etc. All these are clearly and strictly prohibited by the Talmud, in all their various phases. It is even forbidden to say: This day, or this hour, will be lucky to start on a journey for the purpose of business, or the like, היום יפה לצאת היום יפה ליקח וגו'. Again, one must not say, It is unlucky, if a piece of bread fall from the mouth, or a stick from the hand, or a stag cross the road, or if a reptile be

on the right hand, or a fox on the left. Neither is it allowed to say to one's fellowman: Do not enter with me upon such and such a business, it being early in the morning, the new moon, the first day of the week: איזהו מנחש האומר פתו נפלה מפיו מקלו מידו צבי הפסיקו בדרך נחש מימינו ושועל משמאלו אל תתחיל בי שחרית הוא ראש חדש הוא מוצאי שבת הוא. All such practices are held by the Rabbis to be both superstitious and irreligious.

The various modes of punishment by death for certain violations of the law are here fully described; for instance, any one publicly desecrating the Sabbath by doing any work specifically prohibited on that day, or cursing his father or mother by the name of God, or enticing another person to worship strange gods, or practising witchcraft, was to be punished by lapidation.

The chapter continues with a reference to the various forms of witchcraft, and explains that the verse in the Torah, מכשיפה לא תחיה, "Thou shalt not suffer a witch to live" (Ex. xxii.), applies both to men and women; the reason that the female sex is mentioned in the text is, because at that time women most generally carried on those abominable practices. Although the practice of witchcraft is stringently prohibited, yet the study of it is, according to the Talmud, not unlawful, as the knowledge of it must of necessity form one

of the qualifications of the members of the Sanhedrin, in order that they may be able to decide whether any accusation brought against a person is well founded or not. This law the Talmud bases on the following verse (Deut. xviii. 9): "Thou shalt not learn to do after the abominations of those nations," showing that the *practice* only is prohibited, but not the *study* of it, when it is for the purpose of being competent to give a decision on the matter, if a charge of this kind be brought before the judges, לא תלמד לעשות אי אתה למד אבל אתה למד להבין ולהורות.

CHAPTER VIII.

THE eighth chapter deals fully with the subject of a stubborn and rebellious son, בן סורר ומורה, referred to in Deuteronomy xxi. 18, 19, 20, 21, the punishment being stoning.

Various laws and regulations are laid down with respect to this offence, and a certain period is fixed during which time alone a stubborn and rebellious son could be found guilty. The Talmud further explains the meaning of the words זולל וסובא, glutton and drunkard; and points out that he can only be considered as such when he consumes a certain specified quantity of animal food and wine, which he purchased with money he had stolen from his father and mother.

The Talmud now dwells upon the Biblical terms in reference to this law, and takes them in the most exact and literal sense, so much so that some of the Rabbis are of opinion that the conviction of a stubborn and rebellious son eventually became almost an impossibility.

It is further stated that the punishment of death was not inflicted on the stubborn and rebellious son because of his having partaken of a certain quantity of animal food and wine, but was ordered

rather as a prevention of future crime, which is thus illustrated: הגיע תורה לסוף דעתו של אדם The divine law-giver, knowing that such is the nature of man, that if the lad should accustom himself to gluttony and drunkenness he would consume his father's property, and in addition to his growing habits would probably commit high-way robbery and murder even to gratify his passions, says in effect that it is better that he should be put to death before he has proceeded in the path of vice and crime, than that he should be put to death as a more degraded culprit: ימות זכאי ואל ימות חייב.

The Talmud refers to another law somewhat similar to this, respecting housebreaking. Should the occupier of the house discover a burglar on his premises and there and then slay him, he is not held responsible for the deed, because, if the owner or occupier of the house had not done so, he most probably would himself have been slain by the burglar, in order to effect escape. This act being entirely in his own defence is, therefore, justifiable, and for this following sagacious and logical reason: חזקה אין אדם מעמיד עצמו על ממונו It is a positive fact that no man will stand still and see his property taken from him; he would thus strive with all his power to prevent the robbery. The burglar, therefore, enters the house

with the intention of killing the owner in order to escape, והתורה אמרה הבא להורגך השכם להרגו. So the Torah says, If any one comes to kill thee, hasten to slay him in self-defence.

It is here further taught that if an Israelite be threatened with death for refusing to break any commandment or precept of the Torah, he is permitted, in order to save his life, to transgress it, except in three points, namely, idolatry, murder, and adultery. With regard to these three, he must submit to death rather than yield, and thus publicly sanctify the name of God: כל עבירות שבתורה אם אומרים לאדם עבור ואל תהרג יעבור ואל יהרג חוץ מעכום וגילוי עריות ושפיכות דמים. The Talmud brings here an instance where a man came to Rabbah and said to him: "The governor of my town commanded me to kill a certain person, and he threatened to kill me if I refused; what am I to do?" Upon this Rabbah replied: "Thou must allow thyself to be killed, and not kill thy fellow man;" giving the following remarkable reason: מי יאמר דדמא דידך סומק טפי דילמא דמא דהאי גברא סומק טפי, "Who can tell that thy blood is more esteemed by thy Creator than that of thy fellow creature?" Moreover, the duty of rescuing any human being whose life is in danger is here strictly enforced by the Rabbis.

The permission to transgress the law in other

points is based upon Leviticus xviii. 5: "And ye shall keep my statutes and my judgments, which if a man do, he shall live by them," which is explained to mean, וחי בהם ולא שימות בהם. Ye shall live by the commands, but not die by them.

It is further pointed out that if an attempt be made to entice an Israelite to break any part of the law, with the motive of leading him away entirely from his religion, he must rather sacrifice his life than transgress the law: בשעת גזירת שמד אפי' על מצוה קלה יהרג ואל יעבור.

The Rabbis, also, strongly oppose anything approaching the least act of immorality, so much so, that they prohibit the slightest impropriety of any kind, even though this prohibition endanger a man's life.

CHAPTER IX.

THE Talmud commences this chapter by stating the relationship within which marriage or cohabitation is prohibited in the Torah, the punishment of such being death by fire. All these various points are dealt with minutely.

The Rabbis here enjoin every man to endeavour to give his daughters in marriage as soon as they have arrived at maturity, and at the same time prohibit him marrying his young daughter to an old man, or a young son to an elderly woman.

It is also stated that if a man loves his wife as himself, and honours her even more than himself —by which is meant supplying her with all necessary apparel, in accordance with her station and his means (see Rashi 76)—as, also, he who endeavours to train his sons and daughters in the path of virtue and religion, and marries them when they have reached a proper age; to him may be applied the following Biblical verse: "For thou shalt know that thy dwelling shall be in peace, and thou shalt visit thy habitation, and shalt not sin" (Job v. 24): האוהב את אשתו כגופו והמכבדה יותר מגופו והמדריך את בניו ובנותיו בדרך

ישרה והמשיאן כמוך לפירקן עליו הכתוב אומר וידעת כי שלום אהלך ופקדת נוך לא תחטא.

Again, he who loves his neighbour, he who treats his relatives in a kindly manner, he who takes as wife the daughter of his sister, and he who lends money to the needy, of him Scripture says: אז תקרא וד' יענה, "Then shalt thou call, and the Lord shall hear" (Isa. lviii.).

Incidentally, we find reference to the command of honouring one's father and mother. It is evident that our sages attached the greatest importance to this law—so much so that they strictly enjoin that, if a son see his father transgressing any precept of the Law he should not say to him: "Father, you have violated such or such a law," but he should say: "Thus is it written in the Torah." Then the father will take the hint and readily find out his own transgression, הרי שהיו אביו עובר על דברי תורה לא יאמר לו אבא עברת על דברי תורד אלא אומר לו מקרא כתוב בתורה כן. The Talmud now discusses fully the various ways in which, if a man causes the death of another, he is considered guilty of murder. The Rabbis warn us not to rely on the merits and piety of our ancestors, and to think that their good actions would also protect us, but that we should endeavour to lead pious lives ourselves. Further, we should be careful not to injure in any way the livelihood of our fellow-man, nor should

we take alms or charity if not actually in want thereof. Also we should live strictly morally, and not give way to pride or haughtiness. These excellent teachings are based, by the Talmud, upon a verse in Ezekiel (xviii. 15).

There are in this chapter also laws in reference to injuries inflicted by one man upon another. If these injuries were considered at first as of a fatal nature, but the injured person rallied for a time and afterwards had a relapse and died, then the injurer was held responsible for the death.

If a murder be committed and the evidence for the conviction of the murderer is not fully in accordance with the letter of the law respecting such crime, the culprit cannot be executed, but is to be imprisoned for life, הדהורג נפש שלא בעדים מכניסין אותו לכיפה.

The Talmud now refers forcibly to the Biblical prohibition of intermarriage with those out of the pale of Judaism, a prohibition which every right-minded man must admit to be a wise and just one, and which should strictly be adhered to, as experience in all ages has taught us that such intermarriages cannot bring any good results, but have frequently produced unhappiness and dissension.

CHAPTER X.

THE tenth chapter treats of the laws in reference to striking either father or mother—of stealing a man or woman and selling him or her into slavery, of a זקן ממרא, a learned man rebelling against the decision of the Sanhedrin, of a false prophet, and various other laws, the punishment for the transgression of each being death by strangulation: "He who smiteth his father or mother shall surely be put to death" (Ex. xxi. 15). This the Talmud explains to mean that, if through a blow a wound is inflicted upon a parent, the penalty of death is incurred. But a blow which did not cause a wound would, as a matter of course, equally be a great crime, though not punishable with death, המכה אביו ואמו אינו חייב עד שיעשה בהן חבורה: "He who curseth his father or mother shall surely be put to death" (*ibid.*). The Talmud here states that the crime of cursing a parent is even greater than that of striking. The penalty of striking as already mentioned is חנק, but that of cursing is סקילה, a mode of death severer than the former.

If any one should strike his father's or mother's corpse he is not put to death, because no wound

can be inflicted, though the act is none the less culpable.

If, however, he curses his father or mother, even after their demise, he is nevertheless punished with the prescribed mode of death, המקלל לאחר מיתה חייב והמכה לאחר מיתה פטור. A son is prohibited by this law from striking or cursing his parent, though the latter be impious or wicked, or even be condemned to die for any crime committed: היוצא ליהרג ובא בנו והכהו או קללו חייב. Nay more, it is even laid down as a law in שלחן ערוך, יורה דעה, that, should the son of a heathen man become a גר proselyte to Judaism, and the father remain an idolater, it would still be criminal for the son to strike or curse, or in any way injure or slight his parent. Thus we see that the שלחן ערוך, so much abused by those who are ignorant of its contents, teaches most excellent moral laws. It is hardly necessary to observe that these laws apply equally to son or daughter.

The Rabbis now deal largely with the subject of stealing a human being and selling the same as a slave, as taught in Exodus xxi. 16. They further treat at some length of the law in respect to the "Zakan Mamre," זקן ממרה, *i. e.*, of a man learned in the Torah who rebels against the Sanhedrin, as also with regard to a false prophet. If it be proved that the זקן ממרה opposed the

decision of the Sanhedrin in any point of law, and propagated his own erroneous views, or a false prophet prophesied things which had never been communicated to him by Divine inspiration, they are both liable to punishment by death. Should any prophet come forward to induce men to worship idols, and even show signs and wonders in proof of his teachings, he is, nevertheless, to be considered a false prophet, and no regard whatsoever is to be paid to his prophecy.

CHAPTER XI.

THE eleventh chapter begins with the words כל ישראל יש להם חלק לעולם הבא. "Every Israelite will have a portion in the next world"; by which is meant that even those mentioned in the previous chapters, who were executed in accordance with the order of the Sanhedrin for certain offences, will have a portion in the next world, as they suffered death for the crimes and repented of their sins prior to execution. But the Talmud here also proves that the good and pious of other nations will also enjoy a portion in the world to come, חסידי אומות העולם יש להם חלק לעולם הבא. This chapter is the most difficult of any, inasmuch as, whilst the former chapters deal with the הלכה, Halacha—laws and regulations chiefly criminal—this last chapter deals with the אגדה, Agada, which consists of various maxims and sayings as well as explanations of a host of Biblical passages bearing on the most important principles of our faith. We meet in this chapter with passages such as are found throughout the Talmud, which have caused those who but imperfectly understand this great work, justly called ים התלמוד, the ocean of learning, to speak disrespectfully, or even contemptuously, of

the Rabbis. In reference to this, Maimonides writes thus in his commentary on the Mishna:—"Many passages," he says, speaking of the Agada in the Talmud, "which may at first sight appear strange, obscure, or incomprehensible, can by a wider knowledge and a more suitable method of exegesis be most satisfactorily and clearly interpreted. Any one failing to treat the Agada after this fashion demonstrates, not as he conceives, the obscurity of his subject but his own unwisdom. The sages spoke in metaphors, or in riddles, from which by proper means of study much moral benefit and intellectual satisfaction may be derived."

Maimonides illustrates this remark after the following excellent manner:—Suppose a man without any knowledge whatever of astronomy, though thoroughly acquainted with other sciences and arts, were told that the sun, which to our eyes appears but a very small body, is nevertheless 166$\frac{3}{8}$ times larger than the earth,* would it not seem to him absurd and incomprehensible? Yet, as we all know, this measurement is accurate, and we can by mathematical calculations determine also not only the size of the earth, but its distance from the solar body. (See also on this subject the מבא אגדה, Mebo Agadas, by Rabbi Hirsch Chayoth) These

*This is, of course, according to the Ptolemaic computation. It has now been demonstrated that the volume of the sun exceeds that of the earth 1,200,000 times.

weighty words of Maimonides and other great writers on the "Agadas" not here quoted, should prove a lesson to those who often dare to attack and ridicule some of the Agadas of the Talmud. If a misconception appears to them to exist in any of these sayings, they should attribute this to their own ignorance in not understanding the profound and sagacious teachings of the doctors of the Talmud.

This chapter, in consequence of its length and the vast number of difficult and enigmatical passages contained therein, would require volumes for its adequate explanation. A few extracts, therefore, must suffice. The Talmud asserts that the following persons will have no portion in the world to come: ואלו שאין להם חלק לעולם הבא האומר אין תחיית המתים מן התורה ואין תורה מן השמים ואפיקורוס הקורא בספרים חיצונים המיפר בריתו של אברהם אבינו והמורה בתורה שלא כהלכה. He who denies the resurrection of the dead; he who says the Torah is not of divine origin, and denies not only the whole, but even the least part of it; he who wastes his time in the study of infidel books; he who violates the covenant of Abraham, or who falsely interprets the meaning of the Torah, and so forth. It is further indicated what class of persons are included in the term אפיקורוס, the Epicurean, one who treats with disrespect and contempt the teachings of the Rabbis, whom we

must regard as the true interpreters of the Torah given on Sinai.

The Talmud deals largely with the belief in the resurrection of the dead, and quotes a host of Biblical passages in proof of this dogma. We are here told that Queen Cleopatra said to R. Meir: "We all know and believe that the dead will rise, but I should like to know whether they will rise with or without their garments?" * To which the Rabbi replied that they would rise in their garments, for, as a grain of wheat sown bare and without the husk in the ground is reproduced with many coverings, even so the righteous who are buried in raiment will assuredly rise again therewith, מה חיטה שנקברה ערומה יוצאה בכמה לבושין צדיקים שנקברים בלבושיהן על אחת כמה וכמה.

It is also stated that Antoninus, Emperor of Rome, said to R. Juda Hanassi: "Body and soul both can free themselves from punishment hereafter. The body can plead and say: It was not I that sinned, for since the soul parted from me I am motionless as a stone; and the soul on the other hand can say: It was not I that sinned, for, apart from the body, I am incapable of doing any wrong." But the Rabbi answered, "I will tell you a parable. A certain king had a beautiful garden, in which was some exquisite ripe fruit. He placed therein

* Meaning thereby, whether their souls would live again with or without the raiment of a bodily frame.

two watchmen, one lame and the other blind. The lame man being tempted by the grand appearance and the sweet odour of the fruit, said to the blind man: I see those beautiful fruits; come, let me mount on your back, and we will pluck them. He did so, and they soon consumed the finest fruit of the garden. Subsequently the king came and asked these men: Where is the fine ripe fruit? The lame man excused himself, saying, Have I feet to walk with? The blind man said, Have I eyes to see with? Upon this the wise, practical king put the lame man on the back of the blind one, and so accused them both together of having committed the theft. Even so the supreme King of kings will put the soul into the body after death, and thus judge them together."

The moral of this parable is obvious. It shows how erroneous is the belief of some that after death there is neither punishment nor reward. Verily the Lord punishes those who transgress His commandments, and rewards those who keep them.

The Talmud now deals fully with the advent of the Messiah, and proceeds to prove from a vast number of Biblical quotations the truth of the belief in a personal Messiah, whose coming it is our bounden duty to look for daily.

There is, however, a passage in reference to this subject which at first sight seems most difficult, and

requires explanation; yes, a passage upon which disbelievers in a personal Messiah imagine they can rely to support their erroneous and false views: but we may well apply to these people the words of the prophet (Isaiah xxxvi. 6): "Lo, thou trustest in the staff of this broken reed, whereon, if a man lean, it will go into his hand and pierce it." We must quote here the Hebrew passage in full in order to explain it in its proper light: רבי הילל אומר אין להם משיח לישראל שכבר אכלוהו בימי חזקי׳ אמר רב יוסף שרא לי׳ מרא לר׳ הילל.

The literal translation of these words is as follows: Rabbi Hillel says: "There is not to them (to Israel) a Messiah, for they have already consumed him in the days of Hezekiah." Upon which Rabbi Joseph said: "May the Lord forgive him," which Rashi explains, ימחול לו הק׳ב׳ה שאמר דברים אשר לא כן: "May the Holy One, blessed be He, forgive R. Hillel because he spoke words that are not the truth." Now it is extremely difficult to understand how, since every true Israelite from the time of Moses to the Prophets, and from the sages of the Talmud to the present day, believes in the coming of a personal Messiah, Rabbi Hillel, after all the arguments and statements in the Talmud to prove this doctrine, could so openly deny its truth. And if he really meant to deny this belief, how could Rabbi Joseph

GUILDHALL LIBRARY

simply rebuke him with the words: The Lord forgive him for saying thus; surely he deserved to be called an אפיקורוס, a denier of one of the principles of Judaism!

But in reality Rabbi Hillel never meant his words to be taken in their literal sense. The Hebrew אין להם משיח לישראל has here a significant meaning. It is a fact well known from history, that at all times there have unfortunately appeared false Messiahs, who have misled the people and have had many followers. There were some of these in the days of the prophets, others in the Talmudical periods; for instance, Bar Cochba in the time of Rabbi Akiba, and so also some appeared in later ages, such as Sabbatai Zebi and the like.

Now Rabbi Hillel, anxiously desiring to destroy the pretensions of any false Messiah, made use of the expression להם, which is explained in various places of the Bible by the Talmud to mean: "themselves," "anything belonging to them," "on their own account." (Compare Treatise Succa 9, on the words ולקחתם לכם פרי עץ הדר; also Talmud Megilla 32, משה תיקן להם לישראל וכו'.)

Therefore Rabbi Hillel meant to say that Israel themselves have not the power of choosing a Messiah from amongst them, but he must be sent

by God Himself in his proper and appointed time; for even Hezekiah, to whom a great many prophecies applied, was nevertheless not the true Messiah. (See Rashi *ad locum.*)

Rabbi Joseph simply rebukes Rabbi Hillel for having made use of rather ambiguous expressions, which might lead many to take the words literally in the sense of a denial of a personal Messiah. Rabbi Joseph therefore said: "May the Lord forgive Rabbi Hillel for having disregarded the maxim of the sages, חכמים הזהרו בדבריכם, 'Ye wise ones, be cautious in your words.'"

There are some more interesting and instructive sayings in this chapter, a few of which are as follows (107): לעולם אל יביא אדם את עצמו לידי נסיון. "Every man should be careful not to put himself in the way of any trial or temptation whatsoever." To him who studies the Torah and does not teach it to others, or to him who is capable of studying the Torah and yet neglects to do so, may be applied the words of Holy Writ: "He has despised the word of God" (Numbers xv. 31), הלומד תורה ואינה מלמדה וכל שאפשר לו לעסוק בתורה ואינו עוסק עליהם נאמר דבר ד' בזה (99). But he who imparts the knowledge of the Torah to the son of a co-religionist may be looked upon as his real father, כל המלמד את בן חבירו תורה כאלו עשאו. Any one inducing another to do a good

action is rewarded equally as if he had done it himself: כל המעשה את חבירו לדבר מצוה מעלה עליו הכתוב כאלו עשאו: "Whosoever eats or drinks and does not say the ברכה blessing fixed for the same is considered as robbing the Lord." Upon this Rashi remarks, Because it is said: "The earth and the fulness thereof belong to God" (see T. Berachoth, 35). Four classes of people cannot appear in the presence of God, says the Talmud: namely, scorners, liars, flatterers, and slanderers: ד' כתות אין מקבלות פני השכינה כת שקרנים כת חניפים כת מדברי לשון הרע: He who studies the Torah and does not repeat continually what he learns may be compared to one who sows, but does not reap: כל הלומד תורה ואינו חוזר עלי' דומה לאדם שזורע ואינו קוצר. This is to point out that only by much repetition can any subject be retained. Rabbi Joshua says: "He who studies the Torah and forgets it again may be compared to a woman who bears children and buries them": כל הלומד תורה ומשכחה דומה לאשה שיולדת וקוברת. Rabbi Assa says: "The evil inclinations of man are at first only like a spider's web, but at last become as strong and thick as a cart rope": יצר הרע בתחלה דומה לחוט של כוביא ולבסוף דומה לעבות העגלה. The Talmud strongly condemns all who endeavour to foment quarrels and disunion where peace and concord should prevail.

The Jurisprudence or Civil Law of the Talmudical Treatise "Baba Metsia."

CHAPTER I.

BABA METSIA is divided into ten chapters; and treats of Jurisprudence, or civil law.

The first chapter opens with an illustrative case of two individuals presenting themselves before the Beth Din, or court of justice.

The subject in dispute is the right to the sole possession of a garment, שנים אוחזין בטלית זה אומר כולה שלי וזה אומר כולה שלי. Both take hold of the garment with an equal extent of grasp, and each claims the positive ownership of the entire article; but no evidence is forthcoming from either of them to prove his claim.

The Talmud here ingeniously and logically discusses the form of oath that should be administered to the parties concerned, with a view to prevent any one from coming forward and taking hold of anything in the possession of another person: and

claiming it as his own, שלא יהא כל אחד ואחד הולך ותוקף בטליחו של חבירו ואומר שלי הוא : If a man claims a certain sum of money from another, and the latter admits a part of the claim, he should pay the part admitted and must take an oath that he owes nothing more : מודה מקצת הטענה ישבע

It is here also explained that the negative command, "Thou shalt not covet anything belonging to thy fellow man," applies even to cases where the person coveting any object offers to pay its value, לא תחמוד אפילו בדמי. The Talmud then proceeds to discuss largely the various laws and regulations relative to the finding of property, documents, bills, and so forth: and determines the ownership of the same, if they should be claimed by two different parties.

CHAPTER II.

THE second chapter may be regarded as a continuation of the first. It further lays down certain laws enjoining the public announcement of goods found, ואלו מציאות חייב להכריז, so that the owner may come forward and produce evidence, either by witnesses or by giving certain distinct marks or characteristics, סימנין, to prove his rightful claim and have the property restored.

It is here evident from the Talmud that the greatest care should be taken with any property that may be found: thus, if any one finds books and the owner does not at once come forward, the finder should read in them at least once in thirty days, מצא ספרים קורא בהן אחד לשלשים יום; and if garments are found they should be spread out from time to time, מצא כסות מנערה אחד לשלשים יום ושוטחה לצרכה: This is done that the articles in both cases may be preserved by airing. Incidentally, the duty is here impressed upon us of avoiding all extravagance and luxury, and not to squander such property as has come to us even as easily as by inheritance. For instance, the wearing of too costly garments, the continual use of ex-

30

pensive glass and china vessels; or the employment of workmen without supervising them personally, all these are methods of dissipating wealth, מי שהניח לו אביו מעות הרבה ורוצה לאבדן ילבש בכתנא רומיתא וישתמש בזוגיתא חיורתא וישכור פועלים ואל ישב עמהן : This chapter further dilates on the humane treatment of dumb animals; and points out that צער בעלי חיים דאורייתא, cruelty to animals is strictly prohibited by the law of God: and concludes with the injunction that in the restoration of found property precedence should be given to that lost by one's teacher over that lost by one's parent, אבידת אביו ואבידת רבו של רבו קודמת : This proves the high degree of reverence with which, in the view of the Talmud, we ought to regard our preceptors.

CHAPTER III.

THE third chapter treats of the laws pertaining to goods or animals entrusted to the care of another person; and specifies certain responsibilities devolving upon that person arising from the conditions and stipulations under which he took the things into his charge: whether, for instance, he took them for any remuneration, שומר שכר, or without it, שומר חנם, whether he hired the things, שוכר, or borrowed them for his own use and benefit, שואל. All these have various degrees of responsibility which differ according to the manner in which the things have been taken in charge.

CHAPTER IV.

IN the fourth chapter our sages lay down many laws relative to buying and selling, מקח וממכר. The seller must not overcharge, or give a bad article for a good one. No one should even have in his possession any false weights or measures; much less use them.

He is further enjoined not to sell any mixed or adulterated goods,* : אין מערבין פירות בפירות וכו׳ The purchaser, too, is here forbidden to deceive the seller in any way or manner whatever.

To show how stringent our sages were herein, it may be noticed that they prohibit the seller using any artificial means or trickery by which to enhance the apparent value of any animal or article, אין משרביטין את הבהמה ואין נופחין בקרביים ואין שורין את הבשר במים : In short, no man should deceive another in any manner whatsoever; and if any transaction take place or agreement be made between two individuals by word of mouth, they are bound to keep their engagements. In fact, a man's yea must be yea, and his nay nay; הין שלך

* The anticipation of modern legislation on this subject is evident to the reader.

צדק ולאו שלך צדק : Rabbi Papi tells us of a certain sage who declared he would not break or change his word, even if the treasures of the whole world were offered to him, דאי הוו יהבי לי' כל חללא דעלמא לא הוה משני בדבורי' : Not only are we not allowed to deceive any one in buying or selling, but we must not even pretend to be desirous of buying an article when we really have no intention of doing so, לא יאמר לו בכמה חפץ זה והוא אינו רוצה ליקח : Moreover, if any one knows that his neighbour formerly led an evil life, but has now amended it, or if he be of low descent, he should not reproach him or vex him by making reference to any of these circumstances, אם הי' בעל תשובה לא יאמר לו זכור מעשיך הראשונים אם הי' בן גרים לא יאמר לו זכור מעשה אבותיך :

The Talmud even asserts, that if one man puts another publicly to shame, his crime is as great as if he had shed blood, כל המלבין פני חבירו ברבים כאלו שופך דמים : Much more should a man abstain from vexing or distressing his wife by words; as a woman being so easily moved to tears, the vexation caused to her is greater than to a man; לעולם יהי אדם זהיר באונאת אשתו שמתוך שדמעתה מצויה אונאתה קרובה :

GUILDHALL LIBRARY LONDON

CHAPTER V.

IN this chapter the Talmud dwells largely on the subject of lending or borrowing on interest, and most stringent laws are enacted against usury, איסור רבית, even in the smallest degree whatever; designated in the Talmud by the words אבק רבית, the dust of usury. The Rabbins have also pronounced their decision to the effect that we must not exact usury from a non-Israelite, אפילו רבית נכרי אסור: The practice of exacting usury, according to the Talmud, is as wicked as the shedding of blood, חוקשו מלוי ברבית לשופכי דמים, and the possessions of him who lends on usury shall surely sooner or later decrease and vanish: כל המלוה ברבית נכסין מתמוטטין: We are here strictly enjoined not to lend any one money without receiving from him an acknowledgment of the debt, or without the presence of witnesses; the reason being that the creditor might tempt the debtor thereby, under pressure of circumstances, to deny the debt, and thus commit a sin. כל מי שיש לו מעות ומלוה אותן שלא בעדים עובר משום ולפני עור לא תתן מכשול: Nay, more, one Rabbi even says that the creditor would by this means bring curses on himself, גורם קללה לעצמו: which is explained by Rashi to mean

that when the creditor asks for his money, if the debtor denies the debt, the people will revile the creditor, and say that he has lodged a claim against an innocent man.

To give an instance: we here read that Rab Ashi sent to Rabina shortly before the commencement of the Sabbath, asking him to lend him a certain sum of money for the purpose of buying a piece of land which had just been offered him. Upon which the other replied, "Bring witnesses, and let us draw up a statement of the debt." "What," said he, "do you not trust even me?" "Ay," replied Rabina, "that is just the reason. You are a studious man, and your mind being continually occupied in deep study, you would be very apt to forget the debt, כל שכן מר דטריד בגירסי' משתלי וכו' :

The Talmud here further says that there are three classes of persons who may bring their complaint before the Beth Din, but will receive no hearing: שלשה צועקין ואינן נענין ואלו הן מי שיש לו מעות ומלוה אותן שלא בעדים הכותב נכסיו לבניו בחייו ומי שאשתו מושלת עליו : These are: He who lends money to any one without documents or witnesses: he who makes over his property to his children during his lifetime, and he who allows his wife to rule over him. The reasons for this assertion of the Talmud are obvious.

CHAPTERS VI.—VIII.

THE sixth, seventh, and eighth chapters treat respectively of the laws of hiring or engaging workmen or labourers, and of borrowing animals or domestic utensils for one's own use.

The Talmud here mentions certain rules and regulations in reference to the time when work should be commenced in the morning and when ended in the evening.*

Both employers and employed are bound honestly and regularly to carry out the engagements existing between them: and neither should in the least degree infringe the terms of that agreement. No overwork should be imposed upon either man or beast; and, moreover, no cruelty or harshness should be shown; and in this connection the Talmud expatiates upon the precept, "Thou shalt not muzzle the ox when he treadeth out the corn" (Deuteronomy xxv. 4).

* The Factory Acts in this country prohibiting prolonged labour were evidently anticipated by the Talmud about eighteen centuries ago.

CHAPTER IX.

IN the ninth chapter the Talmud dwells on the renting of houses or lands, and certain responsibilities are enumerated which are binding upon tenants and landlords; and there are, likewise, some very excellent remarks made with reference to the proper tilling of land, such as may prove of inestimable value to cultivators of the soil, even at the present day. This chapter also lays down various laws relative to loans and pledges: and dilates on the precept, "When thou dost lend thy fellow-man anything, thou shalt not go into his house to fetch his pledge; and thou shalt not take a widow's raiment to pledge" (Deuteronomy xxiv.).

The subject of hiring servants is here dealt with, and the precept adverted to: "At his day shalt thou give him his hire," : ביומו תתן שכרו

CHAPTER X.

THE tenth chapter treats of laws respecting the joint occupation of one and the same house by two individuals—one inhabiting the lower, and the other the upper portion, הבית והעליה של שנים :

The Talmud provides how, in the event of the fall of a house so occupied, its materials are to be divided; or, in case of repairs, what proportions of the expense each occupier is to bear.

This chapter further deals with laws relating to partnership, and incidentally the subject of obstruction on highways is referred to.

The Jurisprudence of the Talmudical Treatise "Baba Bathra."

BABA BATHRA, to some extent a continuance of Baba Metsia, is divided into ten chapters. The first chapter commences with the law relating to the division of an enclosure חצר which is in the common possession and use of two individuals who occupy separate houses within it. If the enclosure be divided by means of a partition wall, this wall should be made of such a height as to prevent either of the parties from being able to overlook the courtyard or house of the other. Otherwise owing to the proximity of their dwellings the two families would become unduly acquainted with one another's proceedings, and this might ultimately lead to unpleasant and injurious results. But a partition wall of this character could only be raised when both parties were mutually desirous of its erection, בשניהם רוצים, for if the alteration were carried out in

opposition to the wishes of one of them, and the enclosure (exclusively of the four cubits in front of each house) contained less space than eight cubits, then after the division, neither would have four cubits at his disposal, and this space would be too small to allow for necessary requirements. In this case, then, the one neighbour could not compel the other to consent to the erection of the wall. The same law would apply to a field, garden, or similar property which must be of a certain size before division could be enforced.

Incidentally the Talmud prohibits the demolition of an old Synagogue before the completion of the new one, לא ליסתור איניש בי כנישתא עד דבני בי כנישתא אחריתי : The ground for this injunction is obvious. The building of the new Synagogue might be for some reason delayed or neglected, and the community would thus be left without a place of worship, and public worship being considered by the Rabbis of the highest national and religious importance, they would not allow the community to be without it, even for a short time.

Among other matters our teachers counsel every Israelite to be loyal to his country and government, even should such government be harsh and tyrannical.

The Talmud then reverts to the original subject, and enacts that if one of the two neighbours desires to build the partition wall on his own account he should put a certain mark upon it, which would prove that it belonged to him alone, and thus prevent any dispute arising at a future time.

This precaution would take it out of the power of the other householder to assert that a wall was erected by both, and that the expenses—as is usually done in such cases—were equally shared. Either can insist upon the other joining in building a door to the enclosure, and also a lodge or a small house at the gate, כופין אותו לבנות בית שער ודלת לחצר :

The inhabitants of a town may be compelled to contribute towards the building of a wall around the town, and to provide it with proper gates and defences; or to any outlay which may conduce to the improvement and advantage of the place.

A period of twelve months is fixed with regard to new comers into a town, at the expiration of which time they are bound to contribute towards the support of the various institutions existing therein.

But if the new arrivals become owners of property, the incidence upon them of all the burdens

of the community is immediate, קנה בה בית דירה הרי הוא באנשי חעיר מיד :

If two persons possess in common a Bible in one volume, or any other articles that cannot well be divided, either owner can compel the other to retain the Holy Book or other articles, or to allow him to become the sole owner after receiving or paying the value of the co-holder's share, וכתבי קדש אע'פ ששניהם רוצים לא יחלוקו :

Leaving the main subject, the Talmud proceeds to set forth the authoritative arrangement of the various books of which the Bible is composed.

The order is as follows :—First, the Pentateuch ; Secondly, the prophets in this sequence, Joshua, Judges, I. and II. Samuel, I. and II. Kings.

These form the first Prophets.

Jeremiah, Ezekiel, Isaiah, and the twelve minor prophets form the later prophetical writings. The Hagiographa are arranged in the following order : —Ruth, Psalms, Job, Proverbs, Ecclesiastes, Song of Songs, Lamentations, Daniel, Esther, Ezra, Nehemiah, and Chronicles.

After this digression, various laws are laid down compelling every member of the community, except orphans, to contribute towards the support of the poor. The Rabbis considered charity to de-

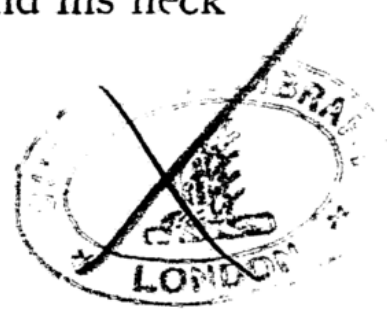
serving poor to be so obligatory a duty upon religious grounds that they enforce it upon every Israelite.

Learned men who occupy themselves wholly with study and education should, according to the Talmud, be exempted from the payment of rates and taxes; or from any other communal burdens. The object of this exemption evidently is to ensure such scholars full leisure and freedom from worldly anxieties to continue their studies, and thus to enable them to diffuse their learning for the benefit of the community at large.

Reference is also made in this chapter to the endeavours of the Patriarch Abraham to promulgate among men the knowledge of the true God, and this in accordance with the frequent practice of the Talmud is put into the form of a beautiful allegory.

Abraham (thus runs the parable) wore suspended round his neck a precious stone of such potent virtue that every sick or infirm person who looked at him was immediately healed. When Abraham died, God placed this stone upon the sphere of the sun, אבן טובה היתה תלוי בצוארו של א״א שכל חולה הרואה אותה מיד נתרפא ובשעה שנפטר א״א מן העולם תלאה הק׳ב׳ה בגלגל חמה :

This allegory may, I think, be thus explained. The precious stone Abraham wore around his neck



represents his earnest endeavour to manifest to the world the existence of the one and true God, touching which his own conviction was the strongest feeling of his heart, and his life's solace and comfort. It was of him that the wise king might have said, "Wisdom and knowledge are an ornament of grace unto thy head, and chains about thy neck." *

By his own great faith in God, Abraham was enabled to strengthen all those whose belief in the true God was hesitating and weak. When the patriarch died the jewel was hung up on the sphere of the sun, meaning that his life did not pass away without leaving to posterity distinct and beneficial traces. His example did not vanish with his death, nor did it remain unproductive and fruitless. He first directed his own gaze above, and then taught others to do as he did. The eyes that were dimmed with the darkness of ignorance and superstition he guided upwards to rest on the Realm of Light and Wisdom.

The Talmud also finds occasion in this chapter to warn those who would improve others and exhort them to righteousness to be careful in the first instance to lead religious lives themselves, free from all reproach, so that those whom they endeavour to guide should have no opportunity of retorting, "First remove the beam from thine own

* Proverbs v. 9.

eye, and then look to the splinter in the eye of thy fellow man." אומר לו טול קיסם מבין עיניך, אומר לו טול קורה מבין עיניך:

The second chapter lays down laws and regulations to the effect that no injury or damage be done or caused to the property of a neighbour; for instance, no one is allowed to dig a well, pit or cave, nor hollow out a watercourse, pond or pool, nor plough, nor put any of the following things, pitch, salt, lime, flints, and seeds near the wall of his neighbour, unless it be at a distance of three handbreadths from it, otherwise he would damage or depreciate the property of his fellow man. This shows how stringent were the laws of the Talmud with regard to the possessions of others.

The Rabbis enforced the duty of avoiding, even in one's own house, any act which would destroy or cause the least damage to the property of his neighbour. There is only one exception to this rule, which is in erecting a school for children. To this no one had a right to object, and thus schools might be established in all parts without the right of interference on the part of any individual.

Education—the Rabbis held—is to be esteemed above all earthly pursuits, and therefore every facility should be given to those who are anxious to train and educate the young. Incidentally we

meet some interesting passages respecting schools and schoolmasters, teachers and pupils, such as the qualification of the masters, the number of pupils assigned to each, and so forth. The subject of education according to the Talmud I have treated at length in my "School System of the Talmud." The Rabbis also forcibly enjoined that every man should avoid in any way endangering or impairing the livelihood of his fellow creature.

In building a wall within his own ground a man should be careful not to erect it just opposite the windows of his neighbour's house, but should remove it to such a distance as would not obstruct the light from his neighbour's dwelling; כדי שלא יאפיל nor should he erect dove-cotes or pigeon houses near the town, lest the birds should injure the plants, flowers and shrubs belonging to other people.

We here find an instance of the careful attention which the Talmud paid to sanitary laws and regulations, for it specifies certain distances at which burial grounds, manufactories of any such things as would cause a nuisance, or receptacles for infectious objects should be placed, מרחיקין את הגבלות ואת הקברות ואת הבורסקי מן העיר חמשים אמה, thus anticipating the sanitary laws and regulations which have been only recently enforced among us.

The third chapter contains the following laws:— If a man has held a house or landed property for three years, שני חזקה, without protest from any one, and a certain person comes forward as the owner at the end of the three years, and contests the right of the present occupier, requiring him to produce documents to prove that he obtained it of him by legal purchase, the possessor of the property, however, pleading that he bought it of the claimant, but has in the meantime lost the documents, it is decided that he is considered the lawful possessor, on the ground that a man need only take care to keep such document for a period of three years, ותו לא: דעד תלת שנין אדם מזדהר בשטרו:

To guard, however, against any unprincipled person who might take advantage of the owner's absence in a distant country, by which he would be prevented from protesting personally against the occupier who wrongly holds the property, the Rabbis provide that he can, wherever he is during the three years, make his protest before two witnesses that the property belongs to him, and not to the present occupier, מחאה שלא בפניו הוי מחאה:

Such protest would be considered in every respect legal, for presumably it would come to the ears of the occupier, and he ought to regard it as a

caution to retain the documents proving the legal transfer of the property. It is also specified to what kind of property the laws of חזקה are applicable, and to what they are not.

The Talmud also enjoins that a man must not accept any goods or articles in charge from married women, servants, and children without the knowledge of the husband, employer, or father respectively. Various laws are laid down as to the management of a business by one of a family.

For instance, if any one dies, and his widow or one of his sons manages the business, and afterwards certain documents come to light which bear the name of the manager of the business, it is stated how these documents should be dealt with. Many more laws are here detailed respecting business transfers.

The Rabbis likewise strictly enjoin us, on the ground of דינא דמלכותא דינא, to abide by the laws of the government under whose sway we dwell for the time being, so that all rights of the holder of any property, or the number of years which would entitle the holder to act as the lawful possessor, should be in accordance with the civil law of the country.

The doctors of the Talmud are extremely anxious as to the care of anything belonging to a fellow man, and with regard to intrusion on his

GUILDHALL LIBRARY LONDON

private concerns, giving the following instances: If on any occasion a number of persons be assembled in a certain place, and any one of them when taking off his garments or putting down any other articles, should by mistake exchange them for those of another guest, he is forbidden to make use of the garments or articles, but should keep them under his care till the rightful owner claims them, when he is to return them to him and reclaim his own, נתחלפו לו כלים בכלים בבית האבל או בבית המשתה ה'ז לא ישתמש בהן עד שיבוא הלה ויטול את שלו :

Furthermore, a man must not construct a window in the wall of his house facing the window in the wall of that of his neighbour, if that neighbour should object on account of his being overlooked and of his movements being observed, היזק ראיה שמי' היזק : In the course of this discussion it is mentioned, in passing, that if a man build a new house for his own occupation, or decorates an old one, he should leave some conspicuous part of the structure without embellishment or ornament, in commemoration of the destruction of Jerusalem, an observance which, I fear, is but little heeded at the present day.

The fourth chapter treats of the sale of house and landed property.

Here the Talmud dwells at length on the detail

of such accessories as belong to the house or land, and would be sold with it, and such as do not properly belong to it, and would not be included in the sale, המוכר את הבית לא מכר יציע וכו׳ :

The fifth chapter deals in a similar way with the sale of a ship, and indicates what articles essentially belong to the ship, and are therefore included in the sale, and what are not so included. For instance, המוכר את הספינה מכר את התורן ואת הנס ואת העוגין ואת כל המנהיגין אותה : If a man sells a ship, the mast, the sail, the anchor, and all the rudders are sold with it.

The same law also applies to the sale of asses, horses, or any other animals, and certain articles are specified which would, or would not be included in the sale of such animals.

With great force the Talmud denounces the use of false weights and measures, considering such use to be one of the greatest sins that can be committed. Not only is one prohibited from using such weights or measures, but it is even sinful to keep them in the house. In order to prevent this the Talmud enjoins that every town should appoint inspectors for the special purpose of periodically examining the weights and measures, מעמידין אגרדמין למדות.

It will be interesting to know that in this chapter the Talmud mentions the names of the

mothers of Abraham, David, and Samson, etc., which, it is asserted, were known by tradition, not being mentioned in the Bible. These names are אימא דאברהם אמתלאי בת כר נבו · אימא דדוד נצבת בת עדאל · אימא דשמשון צללפונית : Amath-lai, the mother of Abraham; Nezebeth, mother of David; and Zellpunith, mother of Samson.

The sixth chapter treats of the sale of fruit or seeds, used either for sowing or for food. If the buyer has sown such, and they did not germinate; whether the seller is responsible for the same, or whether he is not. Also if wines are sold, and are found sour after the buyer had transferred them to his own vessels; whether the seller is responsible, or can plead that the cause of their becoming sour was the use of the vessels. Various laws are laid down in this chapter for the construction of sepulchres or vaults, in the course of which full particulars are given as to the thickness of the walls between the graves and the size of each grave, and the number of graves that can or should be made in one vault or sepulchre. Any one contracting to construct such graves or vaults for another person is bound to be guided by these laws.

The seventh chapter treats of the sale and purchase of plots of land. If after the purchase the buyer discovered that some part of that land

was not fit for sowing, laws are enacted for the settlement of the disputes that might arise. Regulations are likewise laid down with reference to the measurement of land, and the kind which is, or is not to be included in the ordinary term "land."

The eighth chapter deals with the laws of inheritance and bequests, and points out who is to take precedence in the distribution of property left by parents or other near relatives. Also in cases of gifts bestowed by a person who is on a sick bed, there are certain laws determining how and when these gifts are binding upon the donor. If, for instance, he expressed a wish to give away all his property, and afterwards recovered from his illness, he has a right to cancel his intended gift on the plea that he only meant his property to be distributed in the event of his death; and the Talmud accepts this reasoning, because no man would give away all his possessions and leave himself dependent on charity. But if he retains some part of his property for himself he cannot cancel his intended bequest, because by this reservation it seems certain that he did not propose the distribution in the expectation of death, or he would have expressed a wish to bequeath the whole of his property.

Suppose that a property left by parents has

been divided between several sons. After some time a person makes his appearance declaring himself to be also a son of the deceased parents, and claiming therefore an equal part of the said property. One of the brothers acknowledges his identity while the others deny it *in toto.* The Talmud decides against the claimant as regards obtaining an equal portion of the whole property, but the brother who recognises him should give a portion of his own share to the claimant. Should the claimant die without issue and leave some property besides that which he received from his brother, that brother recovers the portion which he gave him, and the other property is equally divided between all the brothers, because as the deceased acknowledged himself to be their brother, this acknowledgment is as binding on him as if a hundred witnesses had given evidence to prove it, : הודאת בעל דין כמאה עדים דמו

The Talmud strictly prohibits a father disinheriting any one of his sons, even on the plea that he is leading an irreligious life, לא תהוי בי עבורי אחסנתא ואפילו מברא בישא לברא טבא for the just reason, that although this son is not religious, he may have children who may be pious, and walk in the path of virtue, and they should therefore not be deprived of the inheritance on account of the guilt of their father, דרילמא

נפקא מיני זרעא מעליא : The Rabbis here also wisely enjoin that every man should work at some manual occupation, even such as he has never been used to, if necessary for the purpose of getting a livelihood, so that he may be independent of others and not need charity. Nay, he should even flay a dead animal in the open street, in order to gain a livelihood, rather than accept alms, and he should not say, "I am a great man, and such occupation is degrading to me." לעולם ישכיר אדם עצמו לעבודה שזרה לו׳ נטוש נבילתא בשוקא ושקול אגרא ולא תאמר גברא רבא אנא וזילא בי מילתא : What an excellent lesson is conveyed to us by these words, for we must all agree that honest labour, be it ever so menial, so far from being degrading to man, is highly honourable.

The ninth chapter is virtually a continuation of the eighth, setting forth various laws in detail, in reference to any one that died and left sons, daughters, and a widow, some of the children being of age, and some minors. These laws direct how the property should be dealt with in case any of the grown up sons, or the widow, should have improved it. The following law is also enacted: If a father had set aside a certain sum to be paid weekly for the maintenance of his younger children, and it is found after his

death that they require more than the sum fixed, the Beth Din have the power to increase the allowance, on the ground that the father's intention was merely to teach the children to be economical, but that he had not meant to deprive them of what is absolutely necessary for their maintenance, שלא כיון אביהם רק שלא יפזרו ביותר:

The tenth and last chapter treats of the laws respecting various documents, such as those relating to sales, loans, gifts, divorces, and so forth. Stringent laws and regulations are laid down as to how these documents should be worded and written, and how and where the witnesses should sign their names, in order to prevent the least opportunity for forgery or any other kind of fraud.

In this chapter are also enacted many laws which refer to suretyship, and the Talmud here decides that the creditor has no claim against the surety unless he had already done everything in his power to recover payment from the debtor, and only when he has failed in obtaining it, has he a right to come upon the surety, לא יתבע את הערב תחילה: The Talmud, however, makes an exception to this rule, which depends upon the terms on which a man takes the responsibility of becoming security for another.

I need scarcely say that I have by no means given here an exhaustive sketch of the contents

of this extensive treatise. It would indeed take volumes to do so. Suffice it to say, that I have at least endeavoured to show in a small degree, how sound and excellent are the laws of the Talmud in reference to jurisprudence, and equity, and I am sure that any student of law would find himself greatly assisted in his profession by studying the treatise Baba Bathra; as Rabbi Ishmael says in this chapter, הרוצה שיחכים יעסוק בדיני ממנות: "He who wishes to become wise should occupy himself with the study of Talmudic jurisprudence."

It is now my task to draw the reader's attention to the apathy and indifference evinced by our community towards the study of the Talmud and Hebrew literature in general. For this purpose I will refer to one of the many ingenious allegorical sayings and parables of Rabbi Bar Bar Chanah in the treatise we have just concluded. זימנא חדא הוא קאי אזלינן במדברא וחזינן הנהו אווזי דשמטי גדפייהו משמנייהו וקא נקדי נחלי דמשחא מתותייהו אמינו להו • אית לן בגוייכו חלקא לעלמא דאתו ? חדא דלי גדפא וחדא דלי אטמא כי אתאי לקמי' דר' אלעזר אמר לי עתידין ישראל ליתן עליהם את הדין: The following is the literal translation of this curious passage: "I was once travelling in a desert," relates Rabbi Bar Bar Chanah. "I observed there a flock of geese, whose feathers

had fallen off by reason of their fatness, and the fat was flowing from under them like a stream. I said unto them, 'Will any of you have a portion in the other world?' Upon which one of them lifted up a leg, and another its wing, and when I told that to Rabbi Eleazar, he said to me, 'Israel will some day have to give an account for this.'" How obscure and mysterious seems at first sight this parable. But it is full of profound meaning, and may thus be explained. The goose, as regards its fatness, is the symbol of stupidity and ignorance. The wing represents the loftiness of knowledge and wisdom, and may in this allegory signify the mind, possessing great capacities which are often neglected, and therefore sink into sensuality, all the mental faculties thereby being degraded. Thus the Rabbi related that he had found during his life's travels talented individuals, whose intellectual powers were, however, burdened with too many worldly occupations, and who were led away by the gratifications of earthly life. Being greatly astonished at such neglect of the high duty of mental culture, our Rabbi examined this class of men as to whether they knew anything about another and better world; the world of knowledge and learning, since he found them so sunk in material pursuits. Thereupon one of them pointed to his well-

fed body, signifying that bodily pleasure alone was his happiness and bliss, both spiritual and intellectual life being unknown to him. Another, however, showed him his wing, and by this the Rabbi discovered that they were yet capable of the intellectual enjoyments and pursuits of that other world after which he was enquiring. When he had told this to Rabbi Eleazar, the latter said, "For those who have mental powers and abilities which they wilfully neglect, and occupy themselves solely with earthly pursuits, Israel will one day have to give account before God."

Such is the case among us. We often keep in subjection those high faculties, those noble germs of lofty aims, and allow them to be lost amidst our craving after the pursuits of the material world.

The future Anglo-Jewish history will have to record that, while non-Jewish scholars have published Hebrew works of various kinds and spread them abroad, while non-Jewish universities have promoted the knowledge of the Hebrew language and literature; with us alas! with us this branch of study is entirely neglected and set aside—so much so, that Hebrew has almost become strange and unknown to a great part of the rising generation of our community in this country. We teach our children arts and sciences, we instruct them in ancient and modern history and in various lan-

guages, and endeavour to place them in a position to make their way in the world. But do they also study the sacred language and literature? Do they know the history of our own nation? Do they, I ask, understand the Bible and their daily prayers? or do they, even at least, know how to read Hebrew correctly? Why should we not teach our children our own national history and literature, as well as we have them instructed in other histories, languages, and sciences?

Judaism does not prohibit the study of arts and sciences. Yes, the Talmud distinctly teaches us to unite the study of the law with worldly employment. "The study of the law unaccompanied by some other occupation or profession will be of no effect, and will lead to sin." *

We should, therefore, continually inculcate upon our children the words of the wise Preacher, ראשית חכמה יראת ד', "The beginning of all learning is the knowledge of religion." And yet there are some among us who even wish to expunge the Hebrew language from our prayer book, giving as a reason that, as this language is unintelligible to a great many worshippers, the prayers they utter are entirely void of devotion and earnestness, and that they thus do not feel at all inspired by such prayers. Now this reminds me of the following

* Aboth ii. 2.

interesting story related in the Talmudical treatise Aboda Zara.* שאלו פלוסופין את הזקנים ברומי אם אלקיכם אינו רצונו בעכ׳ום מפני מה אינו מבטלח · אמרו להם אילו לדבר שאינו העולם צורך לו היו עובדין הרי הוא מבטלה הרי הן עובדין לחמה וללבנה ולכוכבים ולמזלות יאבד עולם מפני השוטים ? אלא עולם כמנהגו נוהג ושוטים שקילקלו עתידין ליתן את הדין : The Roman philosophers once put this question to our sages: "If your God is so much opposed to the worship of idols, why does he not destroy them?" To which they replied, "If such things only were worshipped of which the world had no need, He would destroy them, but since people worship the sun and the moon, the stars and the planets, shall He destroy the world on account of those simpletons? The world must go on its course, but those idolaters will one day have to take the consequences of their folly." The same may be applied to this instance. Shall the Hebrew language be effaced from our liturgy because of those who are ignorant of it? Rather let them study the language, at least so far as to be able to understand their prayers, and not by reason of their ignorance cause the holy language to be forgotten among us, a language which is the very bond of union between Jew and Jew all over the world, a language which has been one of the means of preserving Judaism to the present day.

* Page 54.

THERE are to be found in the above Treatises a large number of Proverbs, some of which are sufficiently interesting and instructive to be quoted here, with some explanations.

SANHEDRIN.

1.

(p. 24.) סימן לגסות הרוח עניות התורה: Pride is a sign of poverty of knowledge.

2.

(p. 6.) יקוב הדין את ההר: Let justice pierce through the mountain: that is to say, Justice should take its course without regard to any obstacle or difficulty standing in its way. A similar saying occurs in another part of this treatise, p. 97 מקרא זה יורד ונוקב עד התהום: "This verse pierces its way through, even down to the deep," referring to a Biblical passage which is brought forward to elucidate some profound subject.

3.

(p. 7.) דבי דינא שקלי לגלימא ליזל ולזמור באורחא: He whose garment has been taken from him by a

court of justice for the purpose of repairing a wrong he had done to his neighbour should sing along the road. Rashi explains, He should be glad that through the judge's decision he no longer possesses that which belonged to his fellow man.

4.

(p. 7.) האי תגרא דמיא לצנורא דבדקא דמיא כיון דרווח רווח: Petty disputes may be compared to a narrow stream, issuing from a cleft in the rock. The wider the cleft opens, the stronger becomes the stream.

5.

(p. 7.) טובי' דשמע ואדיש, חלפוה בישתה מאה: Happy the man who allows reproaches to be heaped on him unnoticed, for by this means he will avoid a hundred evils.

6.

(p. 100.) דנפח בכסיה לא' צחי אמר במאי איכול לחמא סב מיני': He who blows into the cup is not thirsty. So also, if a man asks: With what shall I eat the bread? You may then take the bread from him. The meaning is, that by the manner and idle questions of a man we can see that he is not really in want of either food or drink.

7.

(p. 95.) אגב אורחך לבעל דבבך אישתמע : By your innocent and straightforward conduct you may freely appear before your enemy, and he will even fear you. (See Rashi.)

8.

(p. 33.) אדמוקדך יקיד קוץ קרך וצלי : While your fire is burning cut your vegetables and cook them : that is to say, one should do everything at its proper time ; or as Rashi explains it, while you are occupied in studying any subject, put your mind thoroughly into it, and by this means you will clearly understand it. (See also Aruch.)

9.

(p. 105.) אהבה מבטלת השורה ושנאה מבטלת השורה : Love and hatred both disregard the usual course of social life.

10.

(p. 44.) אסא דקאי ביני חילפי אסא שמי ואסא קרו לו : Though a myrtle stands among thorn bushes it still remains a myrtle, and is always called so ; that is to say, a truly good man always retains his character, though he be placed among bad companions.

11.

(p. 7.) אתרתן תלת גנבא לא מיקטל : A thief may escape punishment twice or three times, yet he will not always escape, but will meet at last with his deserts. This is somewhat similar to the English proverb: The pitcher that goes often to the well will be broken at last.

12.

(p. 95.) בת דינא בטל דינא : If a dispute be put off for one night, it will cease altogether, meaning if the heat of any strife has abated, it can then more easily be settled.

13.

(p. 7.) גברא דרחיצנא עלי׳ אדייה לגזיזי וקם : The man in whom I confided has lifted up his fist against me. This proverb, says the Talmud, has its origin in Psalm xli. 10, where it is said: "Yea, my own familiar friend in whom I trusted, who did eat my bread, has lifted up his heel against me."

14.

(p. 94.) גיורא עד עשרה דרי לא תבזה ארמאי קמי׳ : Even to the tenth generation thou shalt not in the presence of a proselyte despise his former co-religionists. That is to say, we must study the feelings and prejudices of every man.

15.

(p. 106.) גמלא אזלא למיבעי קרני אודני דהוו לי׳ בזיזן מיני׳ : The camel once wished to have horns, but ultimately his ears were cut off: that is to teach us, if a man be over anxious to acquire things which he cannot attain, he at last loses that which he actually possesses.

16.

(p. 96.) גרירתי׳ לארמאה שפיר לי׳ איתלי לי׳ נורא בדיקני׳ ולא שבעת חוכא מיני׳ : If you have singed the beard of an idolater and he is pleased with it, you may set fire to the whole of his beard and laugh over it to your satisfaction. The moral of this is that if a man suffers his proper dignity to be encroached upon, he incurs the danger of being ultimately lowered and degraded.

GUILDHALL LIBRARY LONDON

17.

(p. 8.) דבר אחד לדור ולא שני דברין לדור : One leader only and not two will benefit a generation. This is to point out that the welfare of any community or association will be best promoted by the guidance of one chief only. We may perhaps compare this to the well-known popular proverb, "Too many cooks spoil the broth."

18.

(p. 102.) : דפרע קיני׳ מחריב ביתו He who gives way to anger, in order to revenge himself upon any one, destroys his own house.

19.

(p. 7.) : היא ניימא ודיקולא שפיל If the woman slumbers the work basket falls to the ground; that is, as Rashi explains, if the housewife be idle and neglect her house, everything goes to ruin. This proverb the Talmud bases upon Eccles. x. 18, "By slothfulness the building decayeth, and through idleness of the hands, the house droppeth through."

20.

(p. 22.) : חסרי לגנבי׳ נפשא לשלמא נקיט If the thief has no longer any opportunity to steal, he pretends to be honest.

21.

(p. 103.) : מקדיח תבשילו ברבים One who openly lets his food burn. The moral of this saying is, if a man does an evil action in public, he sets a bad example to others, and he may probably induce them to follow it.

22.

(p. 38.) : נכנס יין יצא סוד If wine enters, the secret comes out. This proverb corresponds with the English phrase: "When the wine is in, the wits are out." It may be interesting to mention here that the numerical value of the Hebrew term יין for wine is seventy, and that also the Hebrew for secret סוד is equivalent to seventy.

23.

(p. 52.) : נפישי גמלי סבי דטעינו משכי דהוגני There are many old camels that are laden with the hides of young camels, *i.e.*, old people often survive young ones.

24.

(p. 29.) : עכברא דשכיב אדינרי A mouse that lies on golden coins, meaning, a miser carefully conceals his wealth, and makes no use of it whatsoever.

25.

(p. 96.) : קריינא דאגרתא איהו להוו פרוונקא The reader of the letter should at the same time be the messenger. This somewhat enigmatical saying points out, that whosoever makes a proposition should endeavour to carry it into effect.

26.

(p. 7.) שב בירי לשלמנא וחדא לעביד ביש : A peaceful man escapes the danger of even seven pits, but the evil doer escapes not even one. This corresponds, says the Talmud, with the following verse in Proverbs xxiv. 16, "A just man falleth seven times and riseth up again, but the wicked shall fall into misfortune."

27.

(p. 29.) שב שני הוי' כפנא ואבבא דאומנא לא חליף : There may be seven years' famine, but it does not even pass at the door of an industrious and skilful workman, *i. e.*, an artisan need never fear privation.

28.

(p. 29.) שב שני הוי' מותנא ואינש בלא שני' לא שכיב : There may be seven years' pestilence, yet no man dies before his time.

29.

(p. 49.) תהא לוטא ולא תהא לאטה : Rather allow thyself to be reviled than revile others.

30.

(p. 26.) טילטולא דגברא קשי מ־איתתא : It is harder for a man to be without a fixed abode

than for a woman, *i. e.*, women always meet with more sympathy and consideration than men.

31.

(p. 100.) לא תעיל דוי בלבך דגברי גיברין קטל דוי : Let not anxiety or trouble prey too much upon your heart, for it has killed many a strong man.

32.

(p. 16.) אין הקומץ משביע את הארי ואין הבור מתמלא מחוליתו : A handful does not satisfy the lion, and a pit cannot be filled up again with the earth, which was dug out of it. The moral we may draw from this is, that a small income cannot cover large expenses.

33.

(p. 105.) חוצפא מלכותא בלא תאנא : Impudence is a kingdom without a crown.

34.

(p. 64.) חותמו של הק'ב'ה אמת : Truth is the seal of the Holy One, blessed be He. That is to say, only truth can stand before God.

35.

(p. 39.) מני' ובי' אבא ניזיל בי' נרגא : Out of the midst of the forest is made the handle for

the axe, wherewith to cut the forest down. This proverb, I think, may be based on the words of the Prophet Isaiah, xlix. 17, "Thy destroyers, and they that made thee waste shall go forth of thy self."

36.

(p. 18.) קשוט עצמך ואח"כ קשוט אחרים : Adorn thyself first and then adorn others, *i. e.*, man should first improve himself before venturing upon improving others.

BABA METSIA.

1.

איסתרא בלגינא קיש קיש קריא : "A coin in an empty earthen vessel rattles loudly," that is to say, a man of little knowledge boasts more than one possessed of great learning.

2.

אתתך גוצא נחין לחיש לה : "If thy wife be short, stoop down to her and speak." This points out that a man should do nothing without consulting his wife.

3.

אוקירו לנשיכון כי היבא דתתעתרו : "Respect your wives so that you may become rich," meaning that in this way both husband and wife will enjoy domestic happiness.

4.

באתרא דמרי ביתא תלי׳ זייני׳ תמן קלבאי רעיא קולתי׳ תלא : "In the place where once the master of the house hung up his weapons, the simple

shepherd afterwards hangs up his basket." The moral of which is: Times change, and the lowly occupy the place of the great. This may be based on the verse 1 Sam. ii. 27, "He bringeth low and lifteth up."

5.

גברא דנשי קטלוהו לא דינא ולא דיינא : "For a man whom women have killed, there is neither justice nor judge." This enigmatical saying is thus explained by Rashi, A man who has brought ruin upon himself by giving way to his passions will find no sympathy, and has only himself to blame.

6.

דזקיף לי' זקיפא בדיורתקי' לא נימא לי' לחברי' זקוף בנירתא : "He who has had a relative hanged should not say to another person, 'Hang up for me this little fish,'" the reason being obvious, for the mere word "hang" would be disagreeable to him. This the Talmud connects with another saying, "Do not find fault with another person for shortcomings of which you yourself are conscious."

7.

חומץ בן יין : "Vinegar, the son of wine," an idiomatic expression, signifying the base descendant of a noble family.

8.

יבוא בעל הכרם ויכלו את קוציו : "Let the owner of the vineyard himself come and destroy its thorns," *i. e.*, no person should meddle with things not belonging to him.

9.

כד משלם שעורי מכדא נקיש ואתי תגרא בביתא : "If the barley be gone from the jug, quarrel enters and resounds through the house." If there be no food in the home a man has to endure domestic trouble and vexation on account of the discontent of his family. The moral being, that every man should strive to make provision for the future.

10.

כמה ככרין דנרד למרי דכי : "How many hundredweight of spikenard are due to the master of this wind?" The Talmud tells us that Rabbi Simon, who was a very stout man, much affected by intense heat, asked his daughter to fan him, for which service he would give her one pound of spikenard. While she went to fetch the fan a cooling breeze sprang up; upon which the Rabbi uttered the above words.

11.

לפום חורפא שבשתא : "According to the cleverness is the mistake," which is to point out that the

cleverer a man is, the greater can be his error, and therefore no one should rely entirely upon his own wisdom.

12.

עשוק לגבך ושוי לכרסך: "If thou requirest raiment to cover thyself, thou mayest buy it even for more than it is worth; but food thou shalt endeavour to buy only according to its exact value": that is, one should regard decent and proper clothing as even a greater necessity than food.

BABA BATHRA.

1.

אי חברי כחברי דאיוב או מיתותא : "Either friends like those of Job, or death." This is explained by Rashi to mean that, if a man has no true friends in the world, it is far better for him to die.

2.

אין אדם נתפס על צערו : "No man should be punished for having given vent to harsh or unbecoming words while in pain or distress."

3.

גדול המעשה יותר מן העושה : "He who causes another to do good and charitable actions is greater than the one who performs them."

4.

חברך חברא אית לי' וחברא דחברך חברא אית לי' : "Thy friend has a friend, and the friend of thy friend has also a friend." This proverb may be taken as a lesson that we should be careful in our speech, for our words may soon spread abroad in quarters where we should not wish them to be known. Similarly we find in Ecclesiastes (ch. x. 20): "Curse not the king; no, not in thy thoughts,

and curse not the rich in thy bedchamber; for a bird of the air shall carry the voice, and that which has wings shall tell the matter."

5.

עבדין בישין בתר דעבדין מתמלכין : "Bad servants ask for permission after the thing is done."

6.

עד דלא שכיב שוכבי' קיימא מני ביתי' : "Before the sick man dies, there is already some one else appointed over his house," which Rashi explains to mean that Providence sends the remedy before the misfortune occurs; and we should thus never lose confidence in the Ruler of the Universe.

7.

בודקין למזונות ואין בודקין לכסות : "Before giving food we may inquire if the one who asked for it is really in want, but give him raiment at once, for we can see that he requires this."

8.

כסומא בארובה : "Like the blind man at the window." The moral of this is that, if a man is entirely ignorant, and knowledge of anything has come to him merely by chance or guess-work, he may be compared to a blind man whose standing at a window is of no use to him.

APPENDIX.

שמונה פרקים להרמ"בם

A BRIEF OUTLINE

OF THE

EIGHT CHAPTERS OF MAIMONIDES.

THE Shemonah Perakim of Maimonides, so called on account of being divided into eight chapters, are, according to the author, an introduction to the treatise "Pirké Aboth," and appear to be a part of his commentary on the Mishna, which he commenced writing in Spain when only twenty-two years of age, and finished in Egypt in his thirtieth year.

I.

In the first chapter of the "Shemonah Perakim" Maimonides speaks of the human soul and its faculties, נפש אדם וכחותיה and he says, וכמו שהרופא אשר ירפא הגופות צריך שידע תחילה הגוף אשר ירפאהו כולו וחלוקיו מה הם כן רופא הנפש

הרוצה לתקן מדות האדם צריך שידע הנפש וכחותיה וכו׳. "Just as he who would remedy a diseased body must first study the sciences of anatomy and physiology, so also he who would heal the soul must first learn to know it. He enumerates five faculties of the soul, viz., (1) זן, or צומח the nourishing power, being that which effects the assimilation of the food; (2) המרגיש, the power of sensation; under this head he places the five senses—hearing, seeing, smelling, feeling, and tasting; (3) המתעורר, the faculty of desire; (4) השכלי, the power of understanding; and (5), המדמה the faculty of imagination. With regard to the last faculty Maimonides is evidently at variance with other philosophers, as Aristotle in his "Ethics" (translated into Hebrew by Rabbi Meir Alguadez in the year 1405) reckons the fifth faculty as that of locomotion, referring, as he does, the imaginative power to the faculty of sensation, so far at least, that imagination is not identical with perception through the senses, but cannot exist without the power of sensation; it is rather a combined power of sensation and the understanding. In accordance with this Maimonides explains as follows: והחלק המדמה הוא הכח אשר יזכור רשומי המוחשים אחר העלמם מקרבת החושים אשר השיגום. "The imaginative power is the faculty of recalling to the mind sensations

after the objects which gave rise to them are removed from the organ of sense which perceived them." He, however, rejects the power of locomotion as a separate faculty, remarking that, as locomotion proceeds and takes effect from the faculty of desire, the two faculties are identical.

2.

In the second chapter Maimonides examines what powers of the soul are the cause and source of good and bad qualities or habits, המדות הטובות והרעות, that is, obedience and disobedience to commands and prohibitions. Maimonides enumerates two kinds of perfections, namely מעלות המדות, moral perfection, and מעלות השכליות, intellectual perfection, and he considers that intellectual perfection consists of three things, viz., חכמה, wisdom, שכל, understanding, and טוב ההבנה, sagacity. The sources of virtue and vice are sought by our author in desire and sensation; he seems, however, to think the latter somewhat untenable; for further on he remarks, וחלק המרגיש בזה הענין אינו רק שמש לחלק המתעורר "the faculty of sensation only assists the faculty of desire." On examining the matter more closely it is somewhat difficult to understand why Maimonides does not also describe the faculty of thought as the source of virtue and

vice, for it seems that as correct conceptions are indispensable for, and urge to, virtuous and good actions, so also is the sinner for the most part led to his evil deeds by false conceptions of the relations of men to each other as well as to God, unless we assume that reason without desire would not lead to actions. Maimonides further considers that the nutritive power, חלק הזן, and the imaginative power, חלק המדמה, have no part in the source of good and evil, for which he gives the following reason: הזן והמדמה יעשו בעת השינה הפעולה המיוחדת להם "In sleep these faculties go on working in their usual course, and in sleep man does neither right nor wrong, which would necessarily be the case if these two powers contributed to that effect."

3.

The third chapter is very brief, and treats on the diseases of the soul, חולי הנפש, and our author herein gives proofs that, when the mind surrenders itself to immorality it must surely be diseased, and is, consequently, as much in need of a cure as a diseased body. When a man is ill in health, sweet things taste bitter and bitter things sweet, and he sometimes even longs to eat such things as are quite unfit for human food, and has, on the

contrary, a dislike for good and wholesome food; even so it is with a diseased mind. It often has a strong desire and liking for evil, but hates the good path, and is loth to walk therein. Therefore as a man diseased in body would naturally go to a physician in order that he might cure him of his malady, so also the remedy for those who have infirm souls is to go to the wise, that is to the spiritual physician, who will cure their diseases by inculcating in their minds such doctrines as will lead them back to virtue.

4.

The most important chapter is the fourth, which treats on רפואת חולי הנפש, the remedies and means by which the diseased mind may be cured. In this chapter Maimonides defines virtue as the cause of action taken up by free choice, and is the middle course between two extremes, namely, the too much and the too little. He says: המעשים טובים הם המעשים השווים הממוצעים בין שתי קצוות ששתיהן רע, האחד מהן תוספת, והשנית חסרון, "Good actions are those which hold the middle course equally remote from the two extremes"; and again, והמעלות המדות הן תכונות נפשיות וקנינים ממוצעים בן שתי תכונות רעות. Moral perfections are spiritual qualities and capacities which hold the

place between the two extremes. He gives many instances, and I will quote a few of them.

Temerity, המסירה לסכנות, is one extreme; cowardice, רך הלבב, is the other extreme; and bravery, גבורה, is the mean. Extravagance, הפיזור, is one extreme; avarice, הכילות, is the other, and generosity, הנדיבות, is the mean. Pride or haughtiness, התנשאות, is one extreme; self-contempt, הנבלה, is the other extreme, and self-respect, הסלסול, is the mean; and so on.

Now, when the mind has become morally diseased and given itself over to one extreme, it can only be healed by being brought directly to the other extreme; as, for example, the avaricious man should accustom himself to extravagance, and by that means he will, in the end, be led to the middle course, the even balance.

Maimonides proves this theory in the following terms: כמו שהגוף כשיצא משויוו. נראה על איזה צד נטה ויצא כנגדו בהפכו, עד שישב אל השיווי.....כן נעשה במדות בשוה..... As a diseased body can be restored to health, not merely by treating it with remedies, but by bringing the patient to a sickness directly opposite to his existing disease, by means of which the balance may be restored, even so a similar treatment should be adopted regarding moral dispositions which have degenerated to extremes. Thus, if a man happen

to indulge in a certain sensual pursuit to the very extreme, he should endeavour to remove to the other extreme, and thus train himself to it for some time until he will at last be enabled to return to the middle course. Maimonides further argues at some length that the laws of forbidden food and illegal marriages, the restriction of conjugal intercourse, the command to give tithes, and the setting apart a portion of the harvest for the poor are doubtless prescribed as instruments for restraining the passions of man, which are too often inclined to extreme indulgence. The same reason, he holds, may be given for other precepts of the Law, as, for instance, "Thou shalt not revenge, nor bear any grudge against anyone. If thou see the ass of thy enemy lying under his burden, thou shalt surely unload with him," and others are enjoined for the purpose of weakening the inclination to anger and ill-will; and, again, the commands to restore lost things to the owner, to respect old age, to honour parents, and the like, are intended to remove from man the tendency to greed selfishness, etc. On the other hand, Maimonides rejects self-mortification and too much abstinence, or anything that is carried to excess. He justly regards the well-being of the body from a spiritual point of view, and quotes in the next chapter the well-known Talmudical saying: "A

pleasant dwelling-place, a virtuous wife, and handsome furniture, are suitable to the learned."

5.

In the fifth chapter our great philosopher speaks of the purpose of man's existence, to the attainment of which he has to apply all his spiritual faculties, כחות הנפש לצד תכלית אחת. Our author considers it as the end of man's existence, to comprehend as far as possible the existence of God; and he finds this principle expressed in the briefest, but most profound manner, in the precept of the sages: כל מעשך יהיו לשם שמים: "Let all thy actions be for the sake of God." All Greek philosophers agree in this, that there is a highest good, namely, happiness, which throughout the whole course of his life man strives to attain. But as regards what this highest good is, and wherein this happiness consists, they differ totally from one another; while some believed in pleasure alone as the highest good, some found it in the greatest possible extinction of all wants, others again in complete tranquillity of the spirit. Aristotle, in the first book and fifth chapter of "Sefer Hamiddoth" recognises true happiness in virtue alone. So far, then, unaided human reason, as represented by the great Stagyrite,

had advanced to this point: the recognition of virtue as the end of man's existence, and as his highest happiness. Still the term virtue had yet to be fully defined, and its true position fixed, that, namely, which established it on the knowledge of God. It was at this point that Maimonides took up the thread of moral philosophy, and guided by the great and clear light of revelation, he was enabled to prove that real virtue consists in seeking to attain as far as possible a true knowledge of the relation between God and man.

6.

In the sixth chapter, Maimonides dwells upon an important and interesting subject in moral philosophy, viz., ההפרש אשר בין החסיד המעולה, ובין הכובש את יצרו והמושל בנפשו, the difference between the man who has only succeeded in mastering his passions after a hard struggle and contest: and the virtuous man who practises virtue from an inclination to good; and the question here arises, which of the two is morally of higher worth? In this instance our author contrasts the opinion of other philosophers with our own sages.

For while the former maintained that he who obtains the mastery over his passions only after a struggle, feels great difficulty in the practice of

good, and still as ever is inwardly inclined to evil, but that the truly virtuous man practises virtue from the love of good, and has thus reached a higher degree; our sages, on the other hand, hold that man stands so much the higher, the more he is obliged to struggle in order to overcome the tendency to evil, and that the reward of virtue is proportionate to the effort which it costs. לפום צערא אגרא, "According to the trouble will be the recompense" (Ethics v. 26). Maimonides here endeavours to reconcile the two opinions in the following ingenious manner:— The other philosophers undoubtedly refer to such wicked actions as are universally considered as crimes, מצות שכליות, as for example, murder, theft, fraud, adultery, disrespect towards parents, and the like. The man who has no inclination whatever to commit those vices is decidedly far more moral than the one who has a desire for them. For whosoever has the least tendency towards these crimes must naturally have a diseased mind, inasmuch as no right-minded man would ever think of committing them. And had they even not been prohibited in the Law, common sense would have taught man to shun them. Our sages, on the other hand, had in view such commandments as seem to be, מצות שמעיות, claiming obedience by authority, which do not appeal to

reason; the merit in the fulfilment of which is the greater, the more strongly a man is inclined to their opposites; as for example in the case of forbidden food, the prohibition of wearing a garment of divers sorts, and a host more of the same nature.

7.

In the seventh chapter Maimonides describes the obstacles and hindrances which beset man in his efforts to attain a true knowledge of the Divine Essence; namely, the moral and intellectual imperfections of man, which sever him from God המחיצות ועניניה.

Our philosopher here fixes the rank or degree of the prophets by the measure of their moral worth, inasmuch as every passion is opposed to and weakens the prophetic spirit.

He goes on to say, that intellectual defects פחיתיות סכליות, such as ignorance, סכלות stupidity, דוחק התבונה the lack of mental power מעוט ההבנה, and moral defects, פחיתיות המדות, such as voluptuousness, רוב התאוה, pride, גאוה, propensity to anger, הרוגז והכעס, insolence, עזות, greediness אהבת הממון, and so forth, are the partition-walls, as it were, which separate man from God, and that this was the meaning of the Prophet Isaiah when

he said: "Your iniquities have separated between you and your God" (Is. lv. 2).

The maxim of the Sages, that "prophecy can only abide in a wise, heroic and rich man," points no doubt to what we have said. By the word "wise" they mean intellectual perfection; "rich," designates moral virtues, and especially that of contentment, for he only is rich who is contented with what he possesses, איזהו עשיר השמח בחלקו, and the term "heroic" is here applied to a man who masters and controls his passions, איזהו גבור הכובש את יצרו. "Who is a hero? He who subdues his propensities."

8.

In the eighth and last chapter Maimonides treats of the natural disposition of man, יצירה האנושות and he agrees with Aristotle in "Sefer Hamiddoth" (3, 5 and 6) in asserting that man is created with a tendency to good and evil only, but not with virtue and evil themselves, just as he is not created with the knowledge of any profession or trade. He holds, in the scientific language of his time, that a man whose temperament leans to dryness, and whose brain is fine and deficient in moisture, כשיהי' האדם מזגו נוטה אל היובש, ויהי' עצם מוחו זך והליחות בו מעט, can much

more easily learn and retain, and more clearly comprehend than a phlegmatic person רב הליחות במוח.

Education and proper training alone, he thinks, can give these dispositions their fixed direction and thorough development. Do not believe, Maimonides says, do not believe the astrologers חכמי הכוכבים who maintain that man is forced by nature to practise either virtue or vice. Astrology is a mere delusion and falsehood. For it can clearly be proved from the Scriptures as well as from the Greek philosophers that man is a free agent in his actions; because if it were true that man acted from sheer necessity, there would be an end to all religion, to the worth of all commands and precepts; reward and punishment would thus be entirely out of the question, and learning and teaching, in fact all rules of prudence, would be in vain. Man is, therefore, without the least shadow of doubt, quite free in his actions.

It is a matter of impossibility to give in a paper of this kind, and in such a limited space, all the arguments which Maimonides adduces to prove his opinion; suffice it to say, that our great philosopher penetrates most deeply into this subject and arrives at the conclusion, that the faculties of the soul contribute to man's free choice. Maimonides now passes to the most puzzling question, namely, how

the free will, בחירה, of man is related to the pre-ordaining providence of God; in other words, how man can act according to his own free will, since God knows all that which is to happen? In order to solve this most difficult problem he points out, that although God knows beforehand the actions of man, yet that fore-knowledge cannot and is not to be regarded as predestination, and man is still left to his free choice. He argues in the following manner. The knowledge of God, that is the manner in which He knows things, is inseparable from Himself שהוא ודעתו ודעתו הוא. The knowledge of God is not conceivable without God, whilst it is possible to have a conception of man without his knowledge, and of his knowledge without a conception of him, because man and his knowledge are two distinct things, האדם והמדע שני דברים. The knowledge of God is incomprehensible, since if man had comprehended this he would comprehend God Himself, and also perfection itself, that is man would himself have become perfect. Man is not in a position thoroughly to comprehend the nature of God in consequence of his imperfection and God's perfection. God, however, on this account no more loses His perfection than man can deprive the sun of its brightness because his eyes are dazzled by it.

I have thus given as much as is possible in a paper of this kind, a very brief outline of one of the most important writings of Maimonides, which is an introduction to his theological and philosophical system, and his views respecting moral perfection; and it is now left for students of Hebrew literature to follow up this preliminary outline by a thorough study of these eight chapters in the original work, to which ample justice cannot be here done. May we imitate the bright example of Maimonides, the great philosopher and thinker, who in every respect strictly adhered to our ancient faith.